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Florida.

Acts of the Legislative
Council of the Territory of
Florida

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TWENTY-FIRST SESSION.

THE

ACTS AND RESOLUTIONS

OF THE

LEGISLATIVE COUNCIL

OF THE

TERRITORY OF FLORIDA,

PASSED AT ITS TWENTY-FIRST SESSION,

Which commenced on the second day of January, and ended on the
sixteenth day of March, 1843.

BY AUTHORITY.

Tallahassee:

PRINTED AT THE OFFICE OF THE FLORIDA SENTINEL,

By Joseph Clisby.

1843.

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1843.

RICHARD K. CALL,
GOVERNOR.

THOMAS H. DUVAL,
SECRETARY.

SENATE,
GEORGE WALKER,
PRESIDENT.

THOMAS T. LONG,
SECRETARY.

HOUSE OF REPRESENTATIVES.

JOSEPH B. LANCASTER,
SPEAKER.

HUGH ARCHER,
SECRETARY.

LAWS OF THE TERRITORY OF FLORIDA,

Passed at the Twenty-First Session of the Legislative Council—1843.

CHAPTER—Elections.

ARTICLE I.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida,* That on the first Monday of November, eighteen hundred and forty-three, and annually thereafter, there shall be held at each election precinct in each county of this Territory, an election for representatives to the Legislative Council. Election for Representatives.

Sec. 2. On the first Monday in November, eighteen hundred and forty-three, and every two years thereafter, there shall be held at each election precinct in each county of this Territory, an election for one sheriff, one county clerk, four county commissioners, one county surveyor, and a coroner for each county. Co. officers.

Sec. 3. On the first Monday in November, eighteen hundred and forty-four, and every two years thereafter, there shall be held at each election precinct in each county in this Territory, an election for senators to the Legislative Council. Senators.

Sec. 4. On the first Monday in May, eighteen hundred and forty-three, and every two years thereafter, there shall be held in each election precinct in each county in this Territory, an election for delegate to Congress. Delegate.

ARTICLE II.

QUALIFICATIONS OF VOTERS.

Sec. 1. Every free white male person, of the age of twenty-one years and upwards, and who shall be, at the time of offering to vote, a citizen of the United States, and who shall have resided, or had his habitation, domicil, home, and place of permanent abode, in this Territory, for six months next preceding the election of Delegate to Congress, shall be entitled to vote at any place or precinct within the Territory, for delegate to Congress. A voter for Delegate.

A voter for
Senators. Sec. 2. Every person qualified, as provided for in the last preceding section, who shall have resided, or had his habitation, domicil, home, and place of permanent abode, in this Territory, for six months next preceding the election of any senator to the Legislative Council, and who shall have resided, had his habitation, domicil, home, or place of permanent abode, within the senatorial district for which a senator or senators are to be elected, for six months next preceding the election of such senator or senators, shall be entitled to vote at any place or precinct within the said senatorial district, for such senator or senators.

For Representative. Sec. 3. Any such person who shall have resided, or had his habitation, domicil, home and place of permanent abode in this Territory, for six months next preceding the election of any member of the House of Representatives, or of any county officer, and who shall have resided, or had his habitation, domicil, home, and place of permanent abode within the county for which such representative or county officer is to be elected, for six months next preceding the election of such representative or county officer, shall be entitled to vote at any place or precinct in said county, for such representative or representatives, or for such county officers.

Naturalized voters. Sec. 4. When any person shall claim a right to vote on the ground of his being a naturalized citizen, it shall be the duty of the inspectors of the elections to require his certificate of naturalization to be exhibited, or a certified copy of the same. But no free white male citizen, who was an inhabitant of East Florida on the tenth of July, eighteen hundred and twenty-one, or of West Florida on the seventeenth day of July, eighteen hundred and twenty-one, shall be required to produce or exhibit any proof or certificate of naturalization, in order to entitle him to vote at any election.

Seamen, &c. Sec. 5. No officer, soldier, seaman, or marine, in the regular army or navy of the United States, or of the revenue cutter service, in actual service, shall be entitled to vote at any election in this Territory, unless, previous to his enlistment, and at the time of offering to vote, he was actually a resident of the Territory.

Candidates Sec. 6. Every person who shall become a candidate for any of the foregoing offices, shall possess the same qualification as that prescribed for a voter, before he shall be eligible to that office.

Absence Sec. 7. The fact of a person sailing on board of, or belonging to any vessel or steamboat, hailing from any place in the Territory, shall not of itself, make such person a resident of such place: nor shall the temporary absence of any person from his place of abode, intending to continue his residence there, be sufficient of itself, to abate or discontinue such residence.

ARTICLE III.

ELECTION PRECINCTS.

Sec. 1. It shall be the duty of the board of county commissioners in each county, at its first annual meeting, or as soon thereafter as

conveniently may be, to fix and designate, by order in writing, the several precincts or places in their respective counties, at which elections shall be held; and to increase, diminish* or alter such precincts Election pre-
precincts, from time to time, as public convenience may require. cincts

Sec. 2. Until such precincts are so designated by the board of county commissioners, it shall be the duty of the county clerk, or clerk of the county court, to designate such precincts; and if, from any cause, the board of county commissioners and such clerk shall fail to designate such precincts, then elections shall be held at the places at which the election next preceding had been held.

ARTICLE IV.

APPOINTMENT OF INSPECTORS.

Sec. 1. The county clerk of each county shall, at least ten days previous to any general election, appoint for each precinct three discreet persons, having the qualifications of electors, to act as inspectors at such election, and shall cause notice of such appointment, and of the time and place of holding such election, and of the officers to be elected, to be posted up at the several precincts in his county, within the time aforesaid. County clerk to appoint inspectors

Sec. 2. Every county clerk who shall wilfully neglect or refuse to appoint inspectors, or give the notice as required in the last preceding section, and every person appointed an inspector by any county clerk, who shall, without just cause, neglect or refuse to attend and perform the duties required of him, shall forfeit to the county fifty dollars. Penalty for neglect

Sec. 3. If, from any cause, the county clerk shall fail to appoint such inspectors, or if the inspectors so appointed, or any of them, do not attend, or refuse to perform the duties of inspectors, the electors attending at any precinct, or a majority of them, may elect so many inspectors, not exceeding three, as may be necessary to supply the place of the inspectors who do not attend or refuse to serve, or whose appointment by the clerk has been omitted, and to hold such election. Electors may appoint inspectors.

Sec. 4. The inspectors before entering upon the discharge of their duties shall severally take the following oath: "I——— do swear that I will perform the duties of an Inspector of this election, according to law, and to the best of my abilities; and that I will studiously endeavor to prevent fraud, deceit and abuse, in conducting the same." Oath

Sec. 5. Such oath may be taken before any person authorized to administer oaths, or if there be no such person in attendance, one of the inspectors shall administer such oath to the other inspectors, and one of the inspectors so sworn, shall administer such oath, to the inspector not sworn. Before whom to be taken

Penalty for neglect Sec. 6. The inspectors shall appoint a clerk, who, before entering upon his duties, shall take an oath before some person authorized to administer oaths, or before one of the inspectors, that he will faithfully discharge his duties as clerk of the election, according to the best of his abilities.

Power of inspectors Sec. 7. The inspectors shall have full power to administer all oaths that may be necessary in conducting an election.

ARTICLE V.

MANNER OF CONDUCTING ELECTIONS.

Time of opening polls Sec. 1. The poll of every election shall be opened at nine o'clock in the morning or as soon thereafter as may be practicable, and shall be closed at five o'clock in the afternoon.

Ballot Sec. 2. The electors shall vote by ballot, and each person offering to vote shall deliver his ballot to one of the inspectors at the board.

Sec. 3. The ballot shall be a paper ticket, which shall contain the name or names of the person or persons for whom the voter intends to vote, and shall designate the office to which each person so named is intended by him to be chosen; but no ballot shall contain a greater number of names of persons as designated to any office, than there are persons to be chosen at the election to fill such office.

Endorsement Sec. 4. On the outer side of each ballot when folded, shall appear, written or printed, one of the following words: "Senator," "Delegate," "Representative" or "County;" but no ballot found in the proper box shall be rejected for the want of such endorsement.

Sec. 5. The ballot endorsed "Senator" shall contain the name of the person or persons intended to be voted for, for Senator or Senators; that endorsed "Delegate" shall contain the name of the person intended to be voted for for Delegate to Congress, that endorsed "Representative" shall contain the names of the persons intended to be voted for for Representatives of the Legislative Council, and the ballot endorsed "County" shall contain the names of the persons intended to be voted for for the office of Sheriff, County Clerk, Coroner, County Surveyor and County Commissioners.

Ballot box Sec. 6. When Senators, or a Delegate, or Representatives are to be elected, the inspectors shall provide a box for each officer to be elected, one to be entitled the "Senator's box," one the "Delegate's box," and one the "Representatives' box."

Sec. 7. When county officers are to be elected, the inspectors shall provide a box to be entitled "A County box."

Sec. 8. An opening shall be made in the lid of each box not larger than shall be sufficient for a single closed ballot to be inserted therein at one time, through which each ballot received, proper to be placed in such box, shall be inserted.

Sec. 9. At the time of opening the polls each box shall be publicly opened and exposed, so that it may be seen that there are no ballots therein; each box shall then be closed and shall not be again opened until the polls are closed. To be opened

Sec. 10. When the inspectors shall have received the ballot of any voter, one of them, without opening the same or permitting it to be opened or examined, shall deposit it in the box corresponding in title with the endorsement on the ballot.

Sec. 11. The clerk of the election shall keep a poll list which shall contain one column headed "names of voters," and so many additional columns as there are boxes kept at the election. The heading of each additional column shall correspond with the name of one of the boxes so kept. Poll list

Sec. 12. The name of each elector voting shall be entered by the clerk in the column of his poll list headed "names of voters," and opposite such name shall be written the figure 1 in each remaining column of such poll list, corresponding in its heading with the name of a box in which a ballot of the voter shall have been deposited.

Sec. 13. Any person who is himself a qualified voter may challenge, and it shall be the duty of each inspector to challenge every person offering to vote, whom he shall know or suspect not to be duly qualified as a voter, any may examine such person under oath, to be administered by one of the inspectors, touching his qualifications as a voter, or the inspectors may satisfy themselves in relation thereto by other testimony. Challenging

Sec. 14. The inspectors shall possess full authority to maintain regularity and order and to enforce obedience to their lawful commands during the election and during the canvass and counting the votes after closing the polls. Inspectors to keep order.

Sec. 15. If any person shall refuse to obey the lawful commands of the inspectors, or by disorderly conduct in their presence or hearing, shall interrupt and disturb their proceedings, they may, by an order in writing, commit the person so offending to jail for a period not exceeding five days. May commit disorderly persons

Sec. 16. Such order shall be executed by any Marshal, Sheriff or Constable, or if none be present, by any other person deputed by such inspectors in writing.

ARTICLE VI.

CANVASS BY INSPECTORS.

SEC. 1. As soon as the poll of an election shall have finally closed, the canvass and count of votes shall commence, and shall be public, and shall be completed before an adjournment by the inspectors. Canvass of votes

SEC. 2. Each box being opened, the ballots contained therein shall be taken out and counted unopened, except so far as to ascer-

Double bal- lot to be re- jected

tain that each ballot is single ; and if two or more ballots shall be found so folded together as to present the appearance of a single ballot, they shall be destroyed.

Sec. 3. No ballot properly endorsed, found in a box different from that designated by its endorsement, shall be rejected, but shall be counted in the same manner as if found in the box designated by such endorsement.

Certificates of the result

Sec. 4. The canvass being completed, duplicate certificates of the result shall be drawn up in writing by the inspectors or clerk, containing, words written at full length, the whole number of votes given for each office at such election, the names of the persons for whom such votes for such office were given, and the number of votes so given to each person ; which certificates shall be signed by the inspectors and clerk.

Sec. 5. Such certificate may be in the following form :

Form of the certificates.

COUNTY OF _____, }
Precinct of _____, } ss. We, the subscribers, inspectors and clerk of an election held at the precinct of _____, in the county of _____, on the _____ day of _____, eighteen hundred and _____, do hereby certify that the whole number of votes given for the office of _____, is _____, and that of these votes A. B. received _____ votes, and C. D. received _____ votes ; and that the whole number of votes given for the office of _____, is _____ votes ; and of these E. F. received _____ votes, and G. H. received _____ votes ; and that the whole number of votes given for the office of _____ is _____ votes ; and that of these J. K. received _____ votes, and L. M. received _____ votes.
(Signed) _____
R. P., }
S. T., } Inspectors.
W. Y. }
T. S., Clerk.

Sec. 6. The poll book shall then be signed by the inspectors and clerk.

Poll book and certificates to the co. clerk's office

Sec. 7. The poll book and one of the certificates shall, within eight days after such election, be conveyed by one of the inspectors, to be determined by lot if they cannot agree, to the county clerk's office, and filed therein. The other certificate shall be kept by the clerk of the election.

Penalty for neglect

Sec. 8. If any inspector of the election, on whom the lot may fall, or who may agree to convey such certificate and poll book to the county clerk's office, shall neglect or refuse so to do, without just cause, he shall forfeit to the county one hundred dollars.

ARTICLE VII.

CANVASS BY COUNTY CLERK.

Canvass by co. clerk

Sec. 1. On the tenth day after any election, if it be not on Sunday, and if Sunday, then on the eleventh day, or sooner if returns of such election shall have been received from the inspectors of all

the precincts in the county, the county clerk shall take to his assistance any two justices of the peace of the county, if they can be conveniently had—if not, then any two respectable inhabitants of the county, having the qualifications of voters—and shall proceed publicly to canvass and count the votes given for the several persons for each office, as shown by such returns.

Sec. 2. They shall make and sign a certificate similar to that signed by the inspectors of elections, containing, in words written at full length, the whole number of votes given in such county for each office, the names of the persons for whom such votes for such office were given, and the number of votes so given to each person. Clerk and his assistants to make out and sign certificates

Sec. 3. Such certificate shall be recorded by the county clerk, and filed in his office, and copies thereof, duly certified, shall be evidence in the same manner and in the same cases that the original would be. Such certificate shall also be prima facie evidence of such person as appears thereby to be duly elected. Clerk to file a copy

Sec. 4. Such clerk shall thereupon make out and deliver to every person chosen at such election to the office of representative, or to any county office, a certificate of his election, as evidence thereof, and as notice to such person of his election. Copy to be delivered to the person chosen

Sec. 5. He shall also, within two days after the canvass of the votes in his county, as aforesaid, make out a certified copy of the certificate, signed by himself and justices, showing the result of the election in his county, and enclose, seal, and deposit the same in the nearest post-office, on the most direct route to the seat of government, directed to the Secretary of the Territory, endorsed "Election returns." Copy to be returned to the Secretary

Sec. 6. Whenever there shall be a tie, or an equal number of votes given for any two or more candidates having the highest number of votes (other than those duly elected,) for the office of representative to the Legislative Council, county clerk, sheriff, county commissioner, or coroner, it shall be the duty of the county clerk, without delay, to appoint inspectors at the several precincts in his county, and the day for the holding of a new election of a person to fill such office. In case of a tie a new election to be ordered

Sec. 7. The day appointed for such new election shall not be less than six nor more than twelve days after the official canvass by the county clerk, as aforesaid, and the county clerk shall cause notices of the time and place of holding such new election and of the officers to be elected, to be posted up at the several precincts in his county, at least three days before such election. Clerk to give notice of such new election

Sec. 8. Such new election shall be conducted, the votes canvassed, and the returns made in all respects, as near as may be according to the provisions of this chapter.

ARTICLE VIII.

CANVASS BY SECRETARY.

Sec. 1. On the thirty-fifth day after any general election for senators, or a delegate to Congress, or sooner if official returns shall

Sec'y, Comp- have been received from all the county clerks, the secretary, comp-
t'r and Treas- troller and treasurer of the Territory, or any two of them, shall
urer to cast meet at the secretary's office, and open the returns received from
up & arrange the several county clerks, and cast up and arrange the votes given
the returns for the office of any senator or delegate to Congress as shown by
such returns.

Certificate Sec. 2. They shall make and sign a certificate similar to that
signed by inspectors of elections, containing, in words written at
full length, the whole number of votes given in the Territory for the
office of delegate, the names of the persons for whom such votes
were given, and the number of votes given to each; the whole num-
ber of votes given in each senate district for the office of senator,
the names of the persons for whom such votes were given, and the
number of votes given to each.

Sec. 3. Such certificate shall be prima facie evidence of the
election of the person who appears thereby to be duly elected.

Sec. 4. Such certificate shall be recorded by the secretary in his
office, and copies thereof and of such record, duly certified, shall
be evidence in the same manner and in the same cases that the
original would be.

To be record- Sec. 5. The secretary shall immediately cause such certificate
ed to be published in one or more newspapers printed in the Territory,
for the information of the public.

Duty of the Gov in case Sec. 6. When a tie shall occur or an equal number of votes be
a tie occurs given for any two or more candidates having the highest number of
votes (other than those duly elected,) for the office of senator, and
whenever a tie shall occur, or an equal number of votes be given
for any two or more candidates having the highest number of votes
for the office of delegate to Congress, it shall be the duty of the
Governor to issue his proclamation, giving notice of such fact, and
appointing a day, not less than fifteen nor more than forty days after
issuing such proclamation, for a new election.

Sec. 7. If such tie occur in any election for a delegate to Con-
gress, the several county clerks throughout the Territory shall
appoint inspectors and give notice thereof, and of the time appoint-
ed by the Governor for holding the same, at the several precincts
in his county.

Sec. 8. If such tie occur in any election for senator, the several
county clerks in the senate district in which such tie arose shall in
like manner appoint inspectors to hold such election and give notice
thereof in like manner.

Sec. 9. Such new election shall be conducted and the returns
thereof made, as near as may be, in the manner provided by this
chapter in the case of a regular election.

Gov. to make Sec. 10. When any person shall have been elected to the office
out certific'te of delegate to Congress, the Governor shall make out, sign and
of election caused to be sealed with the seal of the Territory, and transmitted
to such person, a certificate of his election.

ARTICLE IX.

SPECIAL ELECTIONS TO FILL VACANCIES.

Sec. 1. When a vacancy shall occur in the office of Delegate to Congress, or in the office of any Senator, the Governor shall issue his proclamation, giving notice of that fact, and appointing a day for a special election to fill such vacancy.

Gov. to give notice of vacancy in the office of Senator

Sec. 2. If such vacancy occur in the office of Delegate to Congress, the several county clerks throughout the Territory shall appoint inspectors to hold such election, and give notice thereof, and of the time appointed by the Governor for holding the same, at the several precincts in his county.

Also, in office of Delegate

Sec. 3. If such vacancy occur in the office of Senator, the several county clerks in the senate district in which such vacancy exists, shall in like manner appoint inspectors to hold such election, and give notice thereof in like manner.

Sec. 4. When a vacancy shall occur in the office of any representative to the Legislative Council, or of any sheriff, or county clerk, or county coroner, or county surveyor, or any county commissioner, and the board of county commissioners be thereby left without a quorum, the county clerk, or, if his office be vacant, the surrogate of the county, shall appoint a day for a special election to fill such vacancy, and shall also appoint inspectors to hold such election at the several precincts, and post up notices thereof at the several precincts, at least three days before such election.

Clerk to notify vacancies in co. offices

Sec. 5. Every such election shall be conducted, and the returns thereof made, as near as may be, according to the provisions contained in this chapter in cases of a general election.

Sec. 6. When any officer shall be elected to fill a vacancy in any elective office of a particular term, such officer shall be considered as holding the office until the expiration only of the regular term limited to the office, and until his successor shall be elected and qualified.

Sec. 7. Every person elected to fill a vacancy in any county office, shall take his office, give bond, if required by law, and enter upon the duties of his office within fifteen days after the day of his election.

County officers to give bond

ARTICLE X.

CONTESTING ELECTIONS.

Sec. 1. If any candidate of the proper county or district contest the election of any person to the Senate or House of Representatives, he shall give notice thereof in writing to the person whose

Person contesting to give written notice

Depositions
before whom
to be taken

election he contests, or leave written notice thereof at the house where such person last resided, within ten days after the canvass by the county clerk in the case of a Representative, and within thirty days after the canvass by the Secretary of the Territory in the case of a Senator, expressing in such notice the points on which the same will be contested, and the names of any justice of the peace, county clerk, or clerk of the Superior Court, who will attend at the taking of the depositions, and when and where such depositions will be taken.

Sec. 2. The party whose election is contested, may also take depositions before any of said officers, upon reasonable notice to the adverse party.

Subpœnas to
be issued.

Sec. 3. Any such justice or clerk who may be called upon so to do, shall issue subpœnas to compel the attendance of any witness residing within his county, to give testimony at the time and place mentioned in such subpœna; and, if necessary, may compel the attendance of such witness by attachment.

Evidence to
be reduced to
writing

Sec. 4. The officer taking any such deposition, shall reduce the same to writing. Either party may examine or cross-examine any witness, and require his answers to be taken down if pertinent to the points in contest. The officer taking any deposition, shall certify the same, and transmit it to the President of the Senate, if the election of a Senator is contested; and to the Speaker of the House of Representatives, if the election of a Representative is contested.

Sec. 5. No testimony shall be taken, at the instance of either party, after the third Monday of the session of the Legislative Council.

Contest'g co.
offices

Sec. 6. The election of any person to the office of Sheriff, or county clerk, or coroner, or county surveyor, may be contested before the Superior Court of the county, on the petition of any person claiming to be duly elected to such office. The person contesting such election, shall set forth, in his petition, the particular grounds on which he intends to rely to establish his right to such office; and shall serve a copy of such petition upon the adverse party, at least ten days before presenting such petition to the Court.

Court to de-
cide

Sec. 7. The Court shall proceed in a summary way to hear and determine the matters in issue; and to give judgment upon the rights of the parties.

Action upon
such decision

Sec. 8. If, by the judgment of the court, the petitioner is entitled to such office; and the adverse party has been commissioned, or has entered upon, the duties thereof, judgment of ouster shall be pronounced against such party; and upon the presentation of a certified copy of such judgment to the Governor, he shall revoke such commission, and commission the person in the judgment of the court entitled to the office. Costs may be awarded on such proceeding in the discretion of the court.

Sec. 9. Either party shall be entitled to subpœnas to compel the attendance of witnesses before the Court; and a commission may be issued, and depositions taken, in like manner as in actions at law.

ARTICLE XI.

PENALTIES FOR VIOLATING THE PROVISIONS OF THIS
CHAPTER AND GENERAL PROVISIONS.

Sec. 1. If any person shall be guilty of wilful and corrupt false swearing or affirming when interrogated as to his qualifications as a voter, or when his testimony may be required in any contested election, or shall wilfully and corruptly procure another person to swear or affirm falsely as aforesaid, he shall on conviction, suffer the pains and penalties of perjury. Penalty for perjury

Sec. 2. If any officer on whom any duty is enjoined in this chapter shall be guilty of any wilful neglect of duty, of any corrupt conduct in the execution of the same, and be thereof convicted, he shall be punished by a fine not exceeding five hundred dollars. For neglect

Sec. 3. If any person shall by bribery, menace or other corrupt means or device whatsoever, either directly or indirectly attempt to influence any elector of this Territory, in giving his vote or ballot, or to deter him from giving the same, or disturb or hinder him in the free exercise of the right of suffrage at any election within this Territory, held pursuant to this chapter, and shall thereof be convicted, such person so offending and convicted shall be fined not exceeding five hundred dollars. For bribery

Sec. 4. If any officer or other person shall call out or order any of the militia of this Territory, to appear or exercise on any day during elections to be held by virtue of this charter, except in cases of invasion or insurrection, or except in obedience to some civil magistrate, to suppress riots or to enforce the law, he shall forfeit the sum of one hundred dollars, to the county in which the offence is committed. For hindrance

Sec. 5. Every person who shall fraudulently or deceitfully change the vote of any elector, by which such elector shall be prevented from voting for such as he intended, shall forfeit fifty dollars to the county in which the election is held. For fraud

Sec. 6. If any person shall at the same election, vote more than once for the same candidate for the same office, or for different candidates for the same office, he shall, on conviction, be adjudged guilty of a misdemeanor, and be fined not exceeding fifty dollars, or imprisoned not exceeding three months.

Sec. 7. If any person, on any day, or at any time between the commencement of any election provided for in this chapter, and the close of the canvass thereof by the inspectors, shall, without the authority of law, fraudulently destroy any of the ballots given and received at such election, or take away or abstract from any ballot-box any of the ballots so given or received, or put into such ballot-box any ballots, unauthorized by the lawful permission of the inspectors he shall be deemed guilty of a misdemeanor, and shall, for For destroying ballots

each offence, on conviction thereof, be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both.

Majority of inspectors may act Sec. 8. It shall be lawful for a majority of the inspectors of any election held in pursuance of this chapter, to execute all the duties and trusts required to be executed by the inspectors of any such elections.

Comp'sation Sec. 9. Each inspector, and the clerk of any election, shall be entitled to one dollar a day for his services, under the provisions of this chapter, to be paid by the county.

Sec. 10. The terms of office of the several county officers (except those elected to fill vacancies) elected by the people of the several counties, at the general election, shall commence on the first Monday of January succeeding their election.

Act to take effect Sec. 11. This chapter shall take effect as a law from and after its passage and approval ; and all laws or parts of laws repugnant to or inconsistent with the provisions of this act, be, and the same are hereby, repealed.

Approved, 15th March, 1843.

No. II.

An act to establish the County Site of Santa Rosa county.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That from and after the passage of this act, the County Site of Santa Rosa county shall be, and the same is, hereby, established at a town called Milton, in said county.

Sec. 2. *Be it further enacted*, That all laws and parts of laws, so far as they conflict with the provisions of this act be, and the same are, hereby, repealed.

Approved 21st February, 1843.

No. III.

An act in relation to Executions.

Conditions of postponement of sale under execution SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the defendant or defendants, or any other person for, or on his, her or their behalf, in any execution or executions, or other process for the collection of money, which has issued or may hereafter issue out of any of the courts of law or equity in this Territory, shall have the right to postpone to the first Monday in December, in each and every year, the sale of all property that has been levied on before and remains unsold after the first Monday in April, in each and every year ; and in like

Postponement

manner, to postpone to the first Monday in December, in each and every year, the sale of all property levied on as aforesaid, on and from the first Monday in April to the first Monday in December, in each and every year, by giving bond to the proper officer, with good and sufficient security, in double amount of the value of property to be replevied, (which value the officer shall determine and fix,) payable to the plaintiff in execution or other process, and conditioned for the forthcoming of the property replevied, on the first Monday in December next succeeding the date of such bond: *Provided, however,* That when real estate is levied on, the postponements contemplated in this and the other sections of this act may, in all cases, take place without bond.

Defendant to
give bond

Sec. 2. *Be it further enacted,* That if such defendant or defendants, as aforesaid, shall, on or before the said first Monday in December, pay to the plaintiff or officer holding such process, *eleven* per cent. of the principal and interest of such execution or other process, and all costs and commissions on the amount collected, and shall renew said bond for the forthcoming of said property, on the first Monday in February then next ensuing, said defendant or defendants shall have the right to postpone the sale of said property to said first Monday in February, and if said defendant or defendants, shall pay as aforesaid, on said first Monday in February, *eleven* per cent. on the original amount of the principal and interest of such execution or other process, together with all costs that may have accrued, and commissions on the amount actually collected, and shall again renew said bond for the forthcoming of said property on the first Monday in April next ensuing, then the sale of said property may be postponed to said last mentioned day, when the said defendant or defendants, by again paying *eleven* per cent. and costs as aforesaid, on said execution or other process, and renewing said bond for the forthcoming of said property, on the first Monday in December next ensuing said first Monday in April, said sale shall be again postponed to the first Monday in December thereafter, and so on, from one of said periods to another, until the whole amount of said execution or other process is paid.

Per centage
and costs

Conditions of
re - postpone-
ment

Sec. 3. *Be it further enacted,* That every officer having any such execution, or other process to execute, shall levy upon property sufficient entirely to satisfy the same, if sufficient can be found; and in default thereof, shall be held indebted to the plaintiff in such execution or process, or party aggrieved, in a sum equal to the full value of the property which he might lawfully have levied on, unless the same shall exceed the amount due on such process, in which case he shall be held liable to the party aggrieved in the amount so due.

Officer shall
levy

Sec. 4. *Be it further enacted,* That whenever a levy is made between the months of December and April, or in less than thirty days of the first Monday in December, then the postponement of sale contemplated in the foregoing section shall be to the first Monday in February or April, whichever shall first happen, provided the space of thirty days shall intervene in the meantime, and

Shall post-
pone.

Proviso

if less than thirty days intervene, then the postponement shall be to the next regular period in course, and the same payments shall be made and the same bonds given, costs paid and postponements had, from time to time, respectively, as provided for in the second section of this act: *Provided, always,* That such defendant or defendants shall have the right, at any and all times, before the sale of said property, on the payment of thirty-three per centum of the amount of such execution or other process, and all costs as aforesaid, and giving bonds as aforesaid, to postpone the sale of said property for the space of one year from the time of such payment, at the expiration of which time, if another payment of thirty-three per cent. is made, costs paid, and new bond given, as before provided for, said sale may be again postponed for one year, and so on, from time to time, until the whole amount of said debt is paid.

Sale must be made in case of default

Sec. 5. *Be it further enacted,* That should a failure of payment of such per centage before mentioned occur on the arrival of any of said periods, the proper officer may proceed forthwith to advertise such property for sale, and such party so making default as aforesaid, shall not be further entitled to avail him or herself of the provisions of this act, except on paying all costs incurred by reason of such default, and making a payment equal, and at the rate of thirty-three per cent. per year, computing the time from the last payment, or from the date of the replevy bond, if no payment has been made, and in either case, a full payment shall be required at the next regular period.

Bond forfeited

Sec. 6. *Be it further enacted,* That if the defendant or defendants, at any of the times contemplated in this act, shall fail to make the payment required at such time, and shall also fail to produce on the day of sale the property replevied, the forthcoming bond shall then be returned to the clerk's office from which the process issued, as forfeited, and execution shall issue forthwith, as well against the sureties for the value of the property replevied, as against the principals, for the balance which may then be due, and no further replevy of said property shall be permitted.

Sec. 7. *Be it further enacted,* That the provisions of "An act respecting executions," approved March the 5th, 1842, shall continue in force until the first Monday in April next, and no longer.

Sale days

Sec. 8. *Be it further enacted,* That the first Monday in every month shall be the regular day for sales under execution, and no sale by virtue of such process shall be made on any other day, except where it may be necessary to continue the sale from day to day.

Limitations

Sec. 9. *Be it further enacted,* That this act shall take effect from and after the first Monday in April next, and continue in force two years and no longer, and all acts and parts of acts conflicting with the true intent and meaning of this act be, and the same are, hereby, repealed.

Exceptions

Sec. 10. *Be it further enacted,* That this act shall not apply to executions issued for the collection of fines assessed under indictment or information, nor shall it apply to cases where the judg-

ment has been recovered in action of trespass *vi et armis*, special actions on the case for fraud, deceit, slander, or any other cause not founded on contract, either express or implied.

Approved 23d February, 1843.

No. IV.

An act to establish a County Site in Mosquito County.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That from and after the passage of this act, Enterprise, on lake Monroe, in the county of Mosquito, shall be, and is hereby declared to be, the county site of said county, and all suits that are or may be pending in the said county of Mosquito, shall be transposed to, and stand upon, the docket in the clerk's office at said town of Enterprise. Town of Enterprise.

Sec. 2. *Be it further enacted*, That all laws, and parts of laws, so far as they conflict with the provisions of this act, be, and the same are hereby, repealed.

Approved 24th February, 1843.

No. V.

An act to authorise Thomas Williams to establish a Toll Bridge across the Chipola River.

SECTION 1. *Be it enacted by the Governor and the Legislative Council of the Territory of Florida*, That Thomas Williams be, and he is hereby, authorized to erect a toll-bridge across the Chipola river, opposite the town of Marianna, in the county of Jackson.

Sec. 2. *Be it further enacted*, That the said Thomas Williams, his heirs and assigns, shall at all times keep said bridge in good repair, so that it shall be safe for the crossing of loaded waggons and teams; and that the rates of toll shall be regulated by the County Court of Jackson county, from time to time: *Provided, nevertheless*, That the rights accruing under this charter shall be forfeited, unless said bridge shall be kept in such good and substantial repair. Rates of toll to be regulated by the county court

Sec. 3. *Be it further enacted*, That the rights and privileges accruing to the said Thomas Williams, his heirs and assigns, shall continue during the term of twenty years, and no longer.

Sec. 4. *Be it further enacted*, That if the said Thomas Williams shall fail to erect the said bridge within two years from and after the passage of this act, then all the rights and privileges granted by this act shall be forfeited. Bridge to be erected within two years

Sec. 5. *Be it further enacted*, That no bridge shall be erected within three miles of the said location, for the purpose of gathering toll: *Provided, nevertheless*, That this law shall not be so construed as to prevent the erection of a free bridge at any point on said river.

Co. may purchase Sec. 6. *Be it further enacted*, That the county may at any time have the privilege of purchasing said bridge from said Williams, his heirs and assigns, on paying to him, or them, a fair price, to be agreed upon by two indifferent persons, to be selected by the parties, and in case of difference, by an umpire, to be selected by the said arbitrators.

Approved 24th February, 1843.

No. VI.

An act to amend an act to authorize Abraham Milsted to build and establish a Toll Bridge across the Big Escambia, in Escambia county.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That from and after the passage of this act, the right given to Abraham Milsted by the above act, approved February 10th, 1838, to a right to build and establish a toll-bridge across the Big Escambia, be, and the same is hereby, so amended as to make it unlawful for any person, during the term for which said privilege was granted, to erect any public bridge within three miles of the same.

Approved 1st March, 1843.

No. VII.

An act to authorize Josiah King to establish a Ferry across the St. Marys river.

For 10 years SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That Josiah King be, and he is hereby, authorized to establish and charged with the duty of keeping a ferry on the St. Marys river, at the place known as King's Ferry, on said river, for and during the term of ten years from and after the passage of this act.

Court to establish rates Sec. 2. *Be it further enacted*, That the said Josiah King, his heirs and assigns, shall at all times keep a good and sufficient flat, or ferry boat, to cross loaded waggons and teams; and he, or they, shall receive such rates of ferriage as may be established from time to time by the County Court of Nassau county, and shall be subject to the order of said court.

Sec. 3. *Be it further enacted*, That it shall not be lawful for any person or persons to establish a ferry within five miles of said ferry, either above or below on said river, unless the same be toll free, or for his or their individual use.

Act subject to amendment Sec. 4. *Be it further enacted*, That this act shall at any time be subject to the amendment, modification or repeal, of any future Legislative Council of the State or Territory of Florida.

Approved 1st March, 1843.

No. VIII.

An act to empower Patrick Augustus McGriff, a minor, to assume the management of his own estate.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That Patrick Augustus M'Griff be authorized to assume the management of his own estate, and that the letters of guardianship which may have been issued in behalf of said minor be, and the same are hereby, revoked.

Sec. 2. *Be it further enacted*, That all contracts heretofore entered into, and all other acts of whatever kind done and performed by the said Patrick Augustus M'Griff, shall be as valid and binding in law as if he, the said M'Griff, had attained to the age of twenty-one years.

Powers conferred

Sec. 3. *Be it further enacted*, That this act shall not be construed to relieve the guardian of said minor, from any responsibilities imposed upon him or her in consequence of said guardianship, nor to relieve him or her from accounting to said minor for the management of his estate, up to the time of the passage of this act.

Limitation

Approved 1st March, 1843.

No. IX.

An act to renew and amend an act to authorize Abraham Milsted to establish a Ferry across the Escambia River.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the right given to Abraham Milsted by the above expired act, approved February 14th, 1835, be, and the same is hereby, renewed and so amended as to extend the right to said ferry to the term of twenty years from the date of this act, subject to all the restrictions contained in said renewed and amended act.

Right renewed for twenty years

Sec. 2. *Be it further enacted*, That this act shall at any time be subject to the amendment, modification, or repeal of any future Legislative Council.

Approved 1st March, 1843.

No. X.

An act to establish an additional term of the County Court of Franklin county.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That from and after the passage of this act, there shall be holden in the county of Franklin a term of the County Court on the second Monday of March, in each and every year.

2d Monday in March

Approved 1st March, 1843.

No. XI.

An act to be entitled an act to incorporate the Directors and Trustees of the St. Andrews Bay Land Company.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That Jesse Coe, Richard H. Long, Benjamin Wynn, William Booth, William Nickols, and Walter J. Robinson, and their associates, and their successors and assigns, are hereby constituted a body corporate and politic, under the name and style of the "*Directors and Trustees of the St. Andrews Bay Land Company*;" and by that name, they, their heirs, successors, and assigns, shall have perpetual succession, and shall be capable in law to purchase, hold, receive, retain, and enjoy, to them, their heirs, successors and assigns, lands, tenements, goods, and chattles, of any kind or description whatsoever, necessary to carry on the business and concerns of said Company, and the same to grant, mortgage, sell, and dispose of, agreeably to the provisions of certain articles of association, entered into by said Corporation, and entitled "*Articles of association of the St. Andrews Bay Land Company*," dated the fifth day of February, A. D. 1838, and recorded in the office of the Clerk of the County Court of Jackson County, in said Territory, on the second day of November, A. D. 1841; and shall have power to sue and be sued, plead and be impleaded; and to make and use a common seal, and the same to break, alter, and amend, at their pleasure; and to ordain, establish, and put in execution, such by-laws and regulations not inconsistent with the aforesaid articles of association as may be deemed necessary and expedient by said Directors and Trustees for their government, and not being contrary to the Constitution of the United States, and the laws of this Territory.

Powers conferred

Sec. 2. *Be it further enacted*, That the powers, rights and liabilities of said Directors and Trustees and subscribers, to the said articles of association, the purposes and objects of said company, the stock thereof, and all the transactions and business of said company, shall be governed, regulated, defined, determined and executed, in conformity with the articles of association aforesaid, and said articles shall be held and recognized in law as valid and binding upon all interested in said company, and all other persons or bodies corporate, whatsoever.

Restrictions

Sec. 3. *Be it further enacted*, That nothing contained in this charter shall be so construed as to give any banking privileges; and that this act shall be subject to be modified, amended, or repealed, by any future Legislature of the State or Territory of Florida.

Approved 9 March, 1843.

No. XII.

An act to prevent apothecaries, druggists and other persons from selling, giving or delivering poison to any slave, free negro, or free mulatto.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida,* That from and after the passage of this act, it shall not be lawful for any apothecary, druggist, or other person to sell, give or deliver to any slave, free negro or free mulatto, any poison or poisonous drugs, and any person so offending, shall be liable to indictment, and, on conviction thereof, shall be fined in a sum not exceeding five hundred dollars, or imprisonment not exceeding twelve months, at the discretion of the jury. Penalty for violation.

Sec. 2. *Be it further enacted,* That this act shall not be so construed as to mean that, with a written permit from the master, apothecaries, druggists, or other persons, can sell, give or deliver to any slave having such permit, any poison or poisonous drugs.

Approved 9th March, 1843.

No. XIII.

An act entitled an act to repeal an act providing for the safe-keeping of the records of Mosquito county, approved 2d February, 1838, and for other purposes.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida,* That the aforesaid act be, and the same is, hereby repealed, and that it shall be, and is, hereby, declared to be the duty of the clerk of St. John's county, on or before the first day of May next, to turn over and deliver to the clerk of Mosquito county, all the books, records and papers of said county, to be received and retained by the said clerk of Mosquito county, according to law. Clerk of St. John's co'y to deliver up the records

Sec. 2. *Be it further enacted,* That the Judge of said County Court of Mosquito be, and is, hereby, authorized to order elections to fill any vacancies that do or may exist in any county officers of said county; and all laws or parts of laws, so far as they conflict with the provisions of this act be, and the same are, hereby, repealed.

Sec. 3. *Be it further enacted,* That if the clerk of the County Court of St. John's County shall fail to perform the duties by the first section of this act required of him, upon a demand made by the clerk of Mosquito county for the books, records and papers belonging to the said county of Mosquito, he, the said clerk of St. Johns county, shall forfeit and pay the sum of five hundred dollars, to be recovered in any court of competent jurisdiction, by action of debt, one half for the use of an informer, the other half for the use of Mosquito county aforesaid. Penalty for neglect.

Approved 9th March, 1843.

No. XIV.

An act to alter and change the time of holding the election for representative of the Legislative Council for the county of Calhoun.

Election, first
Mond. in Au-
gust

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the election for representative to the Legislative Council of the Territory from the said county of Calhoun, shall hereafter be held on the first Monday in August, in each and every year, under the rules and regulations heretofore, or that hereafter may be prescribed by law.

Sec. 2. *Be it further enacted*, That all laws and parts of laws that now exist or may be passed during the present session of the Legislative Council be, and the same are, hereby, declared null and repealed, so far as they conflict with the intent and meaning of this act, as to the time of holding the election for representative to the Legislative Council from the county of Calhoun.

Approved 9th March, 1843.

No. XV.

An act to alter and change the name of Nathaniel Bemis Patch.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the name of Nathaniel Bemis Patch shall be, and is hereby declared to be, altered and changed ; and that henceforward, the said Nathaniel Bemis Patch shall be known, and called, by the name of Nathaniel Patch Bemis.

Sec. 2. *Be it further enacted*, That this act shall take effect, and be in force, from and after its passage and approval.

Approved 9th March, 1843.

No. XVI.

An act to authorize the County Court of Mosquito county, to raise a county revenue.

Tax on lands

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That for the purpose of enabling the County Court of Mosquito county to build a court house, clerk's office and jail, and for other county purposes, the presiding Judge of said court be, and is, hereby, authorized to call an extra term of his court and, a majority of all the justices of said county being present and assenting thereto, to levy a tax on all lands which are private property, not to exceed one cent. per acre: *Provided*, That no tax shall be levied on any Spanish grant which has not been recognized and allowed by the Government of the United States.

Sec. 2. *Be it further enacted*, That for the purpose of carrying into effect the assessment and collection of the tax authorized to be levied by the foregoing section of this act, the Judge of the County Court be, and is, hereby, authorized to appoint such assessors and collectors as he may deem necessary, and the tax, when collected, shall be deposited in the county Treasury for county purposes.

Approved 9th March, 1843.

No. XVII.

An act to authorize the construction of a canal, or railroad, from the Grand Lagoon, in Escambia county, to the Perdido Bay.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That George Terrill be, and he is hereby, authorized to construct a canal or railroad, with draws, embankments, locks, and other fixtures, that may be necessary in the construction of the said canal, or railroad, from any point on the Grand Lagoon to any one on the Perdido Bay, for the transportation of goods, produce, and all articles whatsoever, and may, for this purpose, have, exercise and use, free and uninterrupted, but not exclusive control, over any waters of the said Grand Lagoon, or any of the said arms of the Perdido, necessary to the construction of the said canal; and, also, of all the waters, creeks and rivers, discharging themselves either into the said Grand Lagoon, or into either the arms of the said Perdido Bay.

To have use of the waters of the Lagoon &c.

Sec. 2. *Be it further enacted*, That it shall be lawful for the said George Terrill to enter upon, and take possession of, any lands whatsoever, whether covered with water or not, which may be necessary to the prosecution and completion of the works contemplated in this act: *Provided*, That no lands belonging to private individuals, shall be taken for said purpose without adequate compensation.

To take possession of any lands

Sec. 3. *Be it further enacted*, That it shall be lawful for the said George Terrill, to take from any land most convenient to the said canal, or railroad, at all times, such timber, stone, earth and other materials, as may be necessary for the construction of, and keeping in repair, the said canal, or railroad: *Provided*, That nothing belonging to private individuals shall be taken, without adequate compensation.

Timber, &c.

To compensate

Sec. 4. *Be it further enacted*, That whenever it shall become necessary for the said George Terrill, or his assigns, to take possession of, and use, any lands, timber, stone, earth, or other materials, owned by private individuals, for the route and site of said works, or for the construction, and keeping in repair the same, and the parties do not agree upon the value of the same, it shall and may be lawful for the said George Terrill, or his assigns, to apply to the

Valuation of such property Judge of the County Court, in which such lands, timber, stone, or other materials lie, for a writ of ad quod damnum, to be directed to the marshal, sheriff, or other officer of said county, properly qualified, to summon five disinterested persons being of lawful age, and house-keepers, to meet and value the said property on oath, to be administered by the marshal, sheriff, or other officer, summoning them; whose duty it shall be to attend such inquest in person, and receive their report, and, also, receive from the said George Terrill, or his assigns, the sum or sums of money adjudged by said report, and pay over the same to the person authorized to receive it, and take an acquittal for the same; and until payment is made to the marshal, sheriff, or other officer aforesaid, of the sum awarded, it shall not be lawful for the said George Terrill to take possession of or use such lands, timber, stone, or other materials, and all the expenses incurred in the execution of the writ of ad quod damnum, shall be paid by said George Terrill, or his assigns, but the appraisers shall not receive more than two dollars each per day, while engaged in such duty; and all property so assessed, and paid for by the said George Terrill, agreeable to the provisions of this act, shall forever after belong to the said George Terrill, his heirs and assigns, in fee simple.

Collection of Toll. &c.

Sec. 5. *Be it further enacted*, That in case of a refusal or neglect to pay toll or freight, at the time of offering to pass through said canal, or over said road, the collector of toll may lawfully refuse passage, or may detain such freight after its passage, until such freight is paid.

Protection

Sec. 6. *Be it further enacted*, That if any person shall wilfully do, or cause to be done, any injury to said canal or railroad, or any of the works appendant or attached thereto, or shall in anywise impede or obstruct the navigation of the same, or the travelling on the said road, such person so offending shall be liable to be indicted, and on conviction thereof, to be punished by fine not exceeding five hundred dollars, or imprisonment not exceeding one year, at the discretion of the jury.

Work must commence in one year

Sec. 7. *Be it further enacted*, That this charter shall be forfeited unless the work contemplated, be bona fide commenced within twelve months, and completed within three years from and after the approval of this act.

Approved 9th March, 1843.

No. XVIII.

An act relative to Auctioneers.

Moneys to be paid semi-annually

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That it shall be the duty of all Auctioneers to pay into the Territorial and County Treasuries respectively, all moneys which by law they are, or may be, required to pay therein, semi-annually, on the first days of May and November. For all moneys so paid into the Territorial Treasury, they shall

take duplicate receipts of the Territorial Treasurer, and file one of them with the Auditor of Public Accounts ; and for all moneys so paid into the County Treasury, they shall take duplicate receipts of the County Treasurer, and file one of them with the said Auditor ; which receipts shall be so filed at the times specified for making such payments. Take duplicate receipts.

Sec. 2. *Be it further enacted*, That if any Auctioneer shall neglect without just cause, proved to the satisfaction of the Auditor, upon notice to him for that purpose, to render his accounts at the times and in the manner now prescribed by law, or to pay into the Territorial and County Treasuries all moneys, and file such receipts, as above directed, within one month after the time herein appointed for that purpose, such defaulting Auctioneer shall forfeit to the Territory one hundred dollars ; which, together with all duties for which he may be liable, and interest thereon, shall be recovered in an action on his official bond ; and the Auditor shall direct the District Attorney, for the district wherein such Auctioneer shall reside, to institute legal proceedings therefor ; he shall, also, report every such delinquency to the Governor, who shall thereupon remove such delinquent Auctioneer from office. Neglect or default and penalty.

Approved 9th March, 1843.

No. XIX.

An act relative to Garnishments.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*. That Garnishees shall file their answers at the first term of the court after the process is executed, which shall be the appearance term, and a trial shall be had at the next term thereafter, as in other cases.

Approved 9th March, 1843.

No. XX.

An act to amend an act to incorporate the City of Port Leon.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the Corporation of the City of Port Leon, is hereby authorized, and empowered, to keep in repair the road from Port Leon to Magnolia, and the road from Port Leon to Shell Point ; and, also, to open and keep in repair, a road from the Magnolia road to the Tallahassee road. Open and repair roads

Sec. 2. *Be it further enacted*, That said Corporation is hereby authorized, and empowered, to establish all ferries and to build all bridges on said roads, (except on the road between St. Marks and Tallahassee,) within eight miles of Port Leon, as may be deemed Bridges and ferries.

Proviso.

proper : *Provided*, Such bridges do not impede navigation, and to expend the funds of said Corporation in such a way as said Corporation may deem best.

Elections.

Sec. 3. *Be it further enacted*, That the election of Mayor and Aldermen for said Corporation, shall in future be held on the first Monday in February, in each and every year, instead of the first Monday of January as heretofore provided ; and that the officers of said Corporation, chosen or appointed to serve until the first Monday in January next, heretofore elected and now in office, or hereafter to be elected, shall continue in office until the first Monday in February, in each and every year respectively, and shall exercise all power conferred upon them by law, in like manner as if they had been originally elected, chosen or appointed, respectively, to serve until the said first Monday in February.

Approved 9th March, 1843.

No. XXI.

An act to authorize John McClosky to build a Bridge and establish a Ferry across Little Bayou, in Escambia County.

Bridge to be
completed in
one year.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That John McClosky, of Escambia County, be and he is hereby authorized and vested with the right of building a toll bridge, or establishing a Ferry or both if necessary, across Little Bayou in said County, and he shall have the enjoyment of the right of said bridge and ferry, or either, during the term of twenty years, from the approval of this act : *Provided*, The rights herein granted shall be void, if the said bridge shall not be completed within twelve months, or said ferry established within ninety days after the passage of this act, and shall not at all times be sufficient and safe, for transportation and passage of any four-wheeled vehicle : *And provided also*, That no bridge shall be erected, which shall obstruct the navigation of said Bayou.

Sec. 2. *Be it further enacted*, That the rights given by this act shall be subject to all the regulations that now are, or may hereafter be made by law, and that this act shall be subject to the amendment, modification, or repeal of any future Legislature of the Territory or State of Florida.

Approved 10th March, 1843.

No. XXII.

An act entitled an act to amend an act to establish a Tariff of Fees.

SECTION 1. *Be it entitled by the Governor and Legislative Council of the Territory of Florida*, That on all sums of money collected under execution, or other legal process, by any Marshal, Sheriff, or other officer in this Territory, there shall be allowed the follow-

ing commissions, to wit :—On the first three hundred dollars, where there is an actual sale, the sum of three per cent., and on the first three hundred dollars of all sums collected without sale, two per cent. On all sums actually collected and received, exceeding three hundred dollars and less than two thousand dollars, two per cent. ; and when collected without sale, one and a half per cent :—On all sums exceeding two thousand dollars actually collected and received from sale, or sales, one and one-fourth per cent., and on all sums actually collected and received, exceeding said sum of two thousand dollars, where there is no sale, one per cent.

Commissions

Sec. 2. *Be it further enacted*, That if any Marshal, Sheriff, or other officer, as aforesaid, shall under any pretence whatever, charge commissions on sums not actually collected, and ready to be paid over to the person or persons entitled thereto, or shall charge commissions on a larger amount than that collected, or shall charge any other or larger fees than are expressly authorized by law, or shall in any other manner whatever be guilty of extortion in his office, the person so offending shall be liable to indictment, and on conviction, shall be fined in a sum not exceeding five thousand dollars, or imprisoned not exceeding twelve months, or may be both fined and imprisoned, not exceeding in duration and amount, the limits aforesaid, at the discretion of the jury.

Penalty for over charges.

Sec. 3. *Be it further enacted*, That wherever an execution is collected in other funds than gold and silver, the officer collecting the same shall receive his commissions in the currency, or funds collected without discount.

Sec. 4. *Be it further enacted*, That it shall be competent for any person or persons, feeling aggrieved by any charge made for costs, by any such officer, to have the correctness of the same, determined by a court and jury, on giving five days previous notice to the officer making such objectionable charge, stating in said notice, the time and place, when and where, the same shall be inquired into and it shall be the duty of the clerk of the Court before which, such officer is notified to appear, to enter such cause for trial on the day specified in the notice aforesaid, and said cause shall be tried on that day or as soon thereafter as practicable, reference being had to the state of the business in which the court may on that day be engaged : *Provided, however*, That, either party shall be entitled to a continuance of the trial thereof, from time to time, by showing sufficient cause to the court for such continuance.

May be determined by a court and jury.

Sec. 5. *Be it further enacted*, That it shall be the duty of the court to administer to the jury empanelled to try the legality of such charge, the following oath:—

Juror's oath

“ You and each of you do solemnly swear, that you will truly and faithfully examine whether in the matter of controversy between and said has been guilty of extortion and a true verdict render, so help you God.”

Sec. 6. *Be it further enacted*, That the jury in returning their verdict, if they find for the plaintiff, whether in a civil or criminal action, shall also find the amount which has been improperly collect-

Jury to find the amount.

Judgment for ed, and thereupon, it shall be the duty of the court in which such
 five times the trial is had, to enter up judgment for five times the amount found
 amount by the jury as aforesaid, in favor of the plaintiff, on which judgment,
 execution shall issue as in other cases.

Sec. 7. *Be it further enacted*, That all laws or parts of laws, so far as they conflict with the true intent and meaning of this act, be, and the same are hereby repealed.

Approved 10th March, 1843.

No. XXIII.

An act to Divorce Eliza Vaughan.

Preamble

WHEREAS, it has been stated to this Legislative Council, that William Vaughan, of Nassau county, in the Territory of Florida, has for many years past abandoned his wife, Eliza Vaughan, and has wholly failed to provide means of support for her and her two children; and it is further represented, that said Eliza Vaughan is wholly unable to defray the expenses of a suit in Chancery, to obtain a divorce: And whereas, the said Eliza Vaughan has petitioned this Legislative Council, to be divorced from her aforesaid husband: Therefore, for the relief of the aforesaid Eliza Vaughan,

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the marriage contract subsisting between the said William Vaughan and Eliza Vaughan, be, and the same is hereby, dissolved and annulled; and the said parties are hereby absolutely divorced from the bonds of matrimony, as fully, absolutely and entirely, as if they, the said William and Eliza, had never been married.

Approved 14th March, 1843.

No. XXIV.

An act to alter and fix the Terms of the Superior Courts of the Apalachicola District.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the terms of the Superior Courts of the several counties in the Apalachicola District, shall be held as follows, in each and every year:—

Spring Term—In the county of Franklin, on the second Monday in March. In the county of Calhoun, on the fourth Monday in March. In the county of Jackson, on the first Monday in April. In the county of Washington, on the third Monday in April.

Fall Term—In the county of Jackson, on the third Monday in October. In the county of Washington, on the third Monday in November. In the county of Franklin, on the first Monday in December. In the county of Calhoun, on the third Monday in December.

Sec. 2. *Be it further enacted*, That an act to alter and fix the terms of the Superior Courts of the Apalachicola District, approved March the 4th, 1839, be, and the same is hereby, repealed; and that this act shall be in force from and after its approval.

Sec. 3. *Be it further enacted*, That this act shall not take effect in the county of Franklin, until after the first of June next. To take effect in June.

Approved 11th March, 1843.

No. XXV.

An act to organize the County of Wakulla.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the district of country included within the following boundaries, to wit:—Beginning at the Gulf, Boundaries. thence north on the range line between range two and three, until it intersects the north boundary of section twenty-four, township two, range two, south and east; thence due west on that line, until it strikes that Ocklockonee river; thence down the river, until it strikes the Gulf; and thence, along the line of the Gulf, to the point of commencement, (including islands), shall constitute a county, to be called the county of Wakulla.

Sec. 2. *Be it further enacted*. That the Governor of the Territory, on the passage of this act, shall appoint a Judge of the County Court of said county, to hold his office according to law.

Sec. 3. *Be it further enacted*, That the inhabitants of said county be, and they are hereby, authorized, on the first Monday in April next, and at the usual day thereafter, to elect such county officers as by law are directed in the several counties of this Territory, and in the same manner, and subject to the same duties, provisions and responsibilities. Co. officers.

Sec. 4. *Be it further enacted*, That the said county of Wakulla, shall be, and is hereby, declared to be in the Middle Judicial District of Florida.

Sec. 5. *Be it further enacted*, That a County Court for said county, shall be holden at the county-site of said county semi-annually, in each and every year,—the first term to be held on the third Monday of April, and the second term on the third Monday of November, and regularly thereafter. County Court.

Sec. 6. *Be it further enacted*, That the Judge of the Superior Court of the Middle District, shall be, and he is hereby, required to hold in said county, two terms of the Superior Court, in each and every year,—the first to be holden on the third Monday in May, and the other term on the first Monday in December. Sup. Court.

Sec. 7. *Be it further enacted*, That all suits pending in the Superior or County Courts of Leon county, against any person, persons, or corporations, residing in, or incorporated in the said county of Wakulla, together with all proper originals or copies of papers, or documents, whether criminal or civil, shall, on application with- Suits transferred.

ten days after notice to that effect, from the Clerks of the Superior or County Courts, or other officers of said county of Wakulla, be delivered over to them respectively ; and the said suits, prosecutions or causes, shall stand upon the Dockets in the courts of the said county of Wakulla, as of the term to which they properly belonged in the county of Leon, and the clerks, marshals, or other officers of Leon county, shall not be authorized to have, or demand, any fees, until the said causes thus removed shall be decided in the said county of Wakulla.

Co Treasury Sec. 8. *Be it further enacted*, That all moneys remaining in the County Treasury of the county of Leon, after the passage of this act, shall be equally divided between the counties of Leon and Wakulla, pro rata, according to population, to be determined by the latest tax list : *Provided*, That all debts heretofore contracted by the county of Leon for county purposes, shall be first liquidated and paid.

County Site. Sec. 9. *Be it further enacted*, That the county-site of Wakulla county, shall be fixed and determined by three commissioners, to be elected on such day and in such manner as the county court may direct, by the persons entitled to vote for county officers ; who, being duly sworn faithfully, and to the best of their skill and ability, to discharge their duties, shall proceed to select the most eligible place for the county-site, to lay off lots, and dispose of the same to the best advantage, for the benefit of the county, make transfers of the title on payment of the purchase money ; also, to contract for the building of a Court-House, and other buildings for said county.

Sec. 10. *Be it further enacted*, That until a county-site is selected, as provided for by the provisions of this act, the courts for said county shall be held, and public offices kept, at the town of Port Leon.

Represent've Sec. 11. *Be it further enacted*, That from and after the passage of this act, the county of Leon shall be entitled to three representatives in the Legislative Council and no more, and the county of Wakulla one.

Sec. 12. *Be it further enacted*, That this act shall take effect from and after its passage.

Approved 11th March, 1843.

No. XXVI.

An act to incorporate the Grand Lodge of Florida.

Incorporation *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the Grand Master, the Deputy Grand Master, and the Grand Wardens of the Grand Lodge of Florida for the time being, and their successors in office, be, and they are hereby, declared to be a Body politic and corporate, by the name and style of the Grand Lodge of Florida, and as such shall be capable and liable in law, to sue and be sued, plead and be impleaded, and shall

be capable of purchasing or accepting, and being invested with a title in real estate, of a lot or piece or parcel of land in the city of Tallahassee, on which to build or erect a Masonic Hall, or such other buildings and improvements as may be deemed needful, useful, and necessary, for the said Grand Lodge of Florida, and to sell and dispose of the same, or any part or parcel thereof, and make deed or deeds of conveyance for the same, and to purchase another lot or piece or parcel of land, if need be for the purpose of building and erecting a Grand Masonic Hall, for the use and property of the said Grand Lodge of Florida, and to do and perform all manner of things to and with the said lot, and piece or parcel of land and premises, that a natural person might of right do and perform. Powers.

Approved 14th March, 1843.

No. XXVII.

An act to amend an act to organize and regulate the Militia of the Territory of Florida.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That from and after the passage of this act the fines for default of attendance at company, Battalion, or Regimental Musters, shall be as follows :—

Regimental, three to ten dollars, at the discretion of the Court Fines. Martial.

Battalion, two to five dollars.

Company, one to two dollars.

And the officers' uniform shall consist of a blue coat and sword.

Sec. 2. *Be it further enacted*, That all field officers shall be uniformed in the uniform adopted by the regulations of the Army of the United States. Field officers' uniform.

Approved 14th March, 1843.

No. XXVII.

An act to amend an act entitled an act to incorporate the Town of Quincy.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the operation of all ordinances of the Town Council of the Town of Quincy, so far as the same may be intended for the preservation of the peace, health, good order, and morality of society, shall extend to the distance of one half mile beyond the present corporate limits of the said town ; *Provided*, That this act shall not be so construed as to authorize the said Town Council to levy tax, for the purpose of revenue, either upon the persons or property of the citizens, embraced within the limits newly assigned.

May extend the operation of its ordinances.

Approved 14th March, 1843.

No. XXIX.

An act to organize the Alachua County Troop.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida,* That the mounted uniform company in the county of Alachua, shall be, and the same is hereby, constituted and declared to be an independent volunteer company, to be called the Alachua County Troop.

Officers and
privates. Sec. 2. *Be it further enacted,* That the officers of said company shall consist of one captain, one first lieutenant, one second lieutenant, one ensign, four sergeants and four corporals; and that the number of privates may be increased to one hundred, by the voluntary enrollment of any qualified person residing within the limits of Alachua county.

Commissions Sec. 3. *Be it further enacted,* That the officers already chosen and elected by said company, and commissioned by the Governor of this Territory, shall remain and continue in the respective commands to which they have been so elected and commissioned, during pleasure or good behavior, or until removed by the proper authority, to wit:—Alexander M'Kay as captain, Samuel Wilson as first lieutenant, Joseph J. Knight as second lieutenant, and Isaac B. Blanton as ensign; and whenever any vacancy shall occur, in any of the above offices, it shall be the duty of the officer highest in rank to order an election to fill such vacancy.

Regulations. Sec. 4. *Be it further enacted,* That the said company may adopt rules and regulations by the voice of a majority of the members, and the assent of the captain; which, when approved by the commander-in-chief, shall be binding on said company: *Provided, always,* That the same be not repugnant to the laws of this Territory.

Musters. Sec. 5. *Be it further enacted,* That said company shall be mustered, and appear in full uniform, at least twice in each year, fully equipped and prepared for drill, parade and inspection, at such time and place as may be designated by the rules and regulations of said company, to be adopted under the fourth section of this act; and shall, also, at all times be liable to be called out by the General commanding the brigade, or the Colonel commanding the regiment to which it is attached, but shall be exempt from all other and further duty under the militia laws of this Territory, save that of attending regimental reviews.

Returns, &c. Sec. 6. *Be it further enacted,* That reports and returns of said company, shall be made to, and through, the staff of the General commanding the brigade to which it belongs; and that said company shall be entitled to procure a stand of colours, and, at dress parades of inspection or drill, appear with the same displayed agreeably to the usages of war; and the Governor of this Territory be, and he is hereby, required to cause said company to be furnished with a sufficient number of rifles and other accoutrements, upon the

requisition and receipt of the captain, or commanding officer of said company : *Provided*, That nothing contained in this act, shall be so construed as to authorize the Governor of the Territory, or future State of Florida, to furnish arms, or other equipments, at the expense of the said Territory or State. Proviso.

Approved 14th March, 1843.

No. XXX.

An act to change the Northern line of the County of Wakulla.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the northern boundary line of the County of Wakulla shall be as follows, to wit :—

To commence at the northern line of section thirty six, in township two, range two, South and East, and thence due West on said line to Ocklockonnee River, which boundary shall be in the place of the northern line of said county specified in the act establishing said county. Boundary.

No. XXXI.

An act to regulate commissions for the collection of money.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That from and after the passage of this act, it shall not be lawful for any solicitor, attorney at law, or general or special agent to charge more than five per cent. on claims placed in his or their hands for collection, unless a specific contract in writing between the parties, exists, to the contrary ; nor shall such charge be made except on amounts actually collected. Five per cent

Approved 14th March, 1843.

No. XXXII.

An act to amend an act in relation to Sheriffs and the Clerks of the Superior and County Courts of Washington County.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the Sheriff and Clerk of the County Court, and Clerk of the Superior Court, of the County of Washington, be, and they are hereby authorized and allowed to keep their offices at their respective homes or places of abode, but nothing herein contained shall be so construed as to prevent the Sheriff and clerks of said Courts, to have all the papers and books of their respective offices, at the Court House during the session of the different courts, or at any other time when required. Offices.

Sec. 2. *Be it further enacted*, That the third section of an act approved 12th of February 1834, so far as it conflicts with the provisions of this act, be, and the same are hereby repealed.

Approved 15th March, 1843.

No. XXXIII.

An act to reduce and fix the compensation of certain Territorial officers.

Salaries.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That from and after the passage of this act, the compensation of the Auditor and Treasurer for the Territory of Florida, shall be three hundred dollars each per annum, and no more, and that the Commissioner of the Tallahassee fund be allowed the sum of four hundred dollars per annum, and no more.

Sec. 2. *Be it further enacted*, That all laws and parts of laws, so far as they conflict with the true intent and meaning of this act, be, and the same are hereby repealed.

Approved 15th March, 1843.

No. XXXIV.

An act concerning the Revised Statutes.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That none of the chapters of the revised statutes reported by the reviser to the present council, shall take effect, or be printed as laws, until such time as the council shall hereafter prescribe, excepting the chapter entitled Elections, which shall go into operation immediately, excepting that part of said chapter, which relates to county commissioners; and that the chapters or bills not passed, or unacted upon at the present session, be carefully collected by the Chief Clerk of the House, and the Secretary of the Senate, and deposited with the Secretary of the Territory, for safe keeping, to be submitted to the next Council.

Not to go into effect.

Exception.

Approved 15th March, 1843.

No. XXXV.

An act concerning School Lands.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the sheriff of the several counties of this Territory, be, and they are hereby, declared to be commissioners of school lands, for their respective counties.

Commissioners.

Trespass.

Sec. 2. *Be it further enacted*, That it shall be the duty of the said commissioners, to take charge of all the school lands in their respective counties, and protect the same from intrusion and waste; to rent them out before the Court-House door, at public outcry to the highest bidder, on the first Monday in January, in each and every year, in such parcels as in his discretion shall be deemed most advantageous, for the term of one year, and no longer; and shall give twenty days notice of the time and place of offering such

land for rent, by advertisement at three public places in the county in which such land lays : and the commissioner is hereby vested with authority to execute leases for such lands, and to do all other acts and things, necessary and proper, to carry into effect the provisions of this act : *Provided*, That the provisions contained in this act, shall not extend to the leases made by the trustees of Jefferson County Academy, in conformity with an act approved eleventh February, 1838, authorizing said trustees to lease for a term of years, the school lands therein named, and to appropriate the proceeds thereof.

Proviso.

Sec. 3. *Be it further enacted*, That when the said lands are offered for rent, unless a reasonable price, in the opinion of the commissioner, is offered, they shall not be rented, and the commissioner shall in all cases require good and sufficient security for the payment of the rent.

Sec. 4. *Be it further enacted*, That the commissioners shall furnish to the treasurer of their respective counties, on the first Monday in January, in each and every year, a correct statement of school lands by them respectively rented, the terms on which they are rented, and to whom. They shall, at the same time, pay into the hands of the County Treasurer of their respective counties, the proceeds of such lands, accompanied with a statement in writing of the particular township from which the said proceeds have been realized, and what amount accrued from each of said townships.

Commissioners to furnish statements.

Sec. 5. *Be it further enacted*, That the commissioner shall deposit in the County Court office, all leases and other contracts in relation to school lands ; and it shall be their duty to seek out, and bring actions against, all trespassers on said lands in their respective counties ; and in all cases of recovery in such actions, the commissioners shall be entitled to receive the sum of five dollars, to be taxed in the bill of costs against the defendant : *Provided*, That in case of the inability of the defendant to pay the said five dollars, the Territory shall not be liable for the same.

Shall deposit leases, &c. in the co. clerk's office.

Sec. 6. *Be it further enacted*, That all suits necessary to be brought, to carry into effect the provisions of this act, shall be brought in the name of the Territory of Florida, to the use of the commissioner of the county in which land may lay, and shall be prosecuted by the District Attorney for the district in which such county is situated, who shall receive a fee of five dollars in every case of recovery, to be taxed in the bill of costs against the defendant ; and in all cases where judgment shall be rendered in favor of the defendant, the costs of the suit shall be defrayed by the commissioner of said county, out of any money in his hands arising from said school lands.

Bringing suit

Sec. 7. *Be it further enacted*, That the commissioners shall be entitled to retain, out of the rents of school lands in their respective counties, ten per centum of the amount that comes into their hands as a commissioner.

Sec. 8. *Be it further enacted*, That on failure of the commissioner to attend to the duties by this act assigned him, he shall forfeit and

pay the sum of five hundred dollars ; to be recovered by action of debt, by any person who may prosecute the same, in any court having jurisdiction, one half the sum so recovered, to the use of the informer, and the other to the use of the county.

Commissioner
to take oath
and give bond

Sec. 9. *Be it further enacted*, That the said commissioner, before he enters on the duties of his office, shall take and subscribe an oath before the Judge of the County Court, in their respective counties, faithfully to discharge the duties of his office, and shall execute a bond in a sum to be prescribed by the County Courts of the respective counties, not to exceed five thousand dollars, payable to the Governor of Florida, and his successors in office, with two good and sufficient securities, to be approved by the respective Judges of the County Courts, conditioned for the correct and faithful performance of the duties of his said office, which bond shall be recorded in the office of the Clerk of said Court, and filed therein.

Appropriat'n
of funds.

Sec. 10. *Be it further enacted*, That the fund accruing from the school lands, shall be appropriated by the County Court, (when sitting for the transaction of county business), to the education of the poor children of the county in which such lands are situated, in such manner as shall, in their discretion, be judged most appropriate.

Sec. 11. *Be it further enacted*, That the following acts, in relation to school lands, approved 11th February, 1832, the 15th February, 1834, the 13th February, 1836, the 12th February, 1837, and an act approved the 4th March, 1842, be, and the same are hereby, repealed.

Approved 15th March, 1843.

No. XXXVI.

An act for the preservation of the Seminary Lands, granted by Congress for a Seminary of Learning, and the disposition of the fund arising from the lease thereof.

Trustees and
their duties.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the Governor of the Territory shall at each session of the Legislative Council, by, and with the advise and consent thereof, appoint five Trustees who shall be styled, "The Trustees of the Seminary Lands," whose duty it shall be, to take charge thereof, to protect the same from waste, injury, or trespass—to lease the same out from year to year, either at auction or privately, in such manner as will best advance the interest of the fund—to make contracts by their said name, and sue therefor, and release the same—distrain for rent—eject tenants for non-compliance with contracts, and do other acts such as a corporate body may do in reference to the trust hereby confided. That said Trustees shall keep a journal of their proceedings, and shall act alone by a majority of the board, and their action shall be through their President, or through agents properly appointed.

Sec. 2. *Be it further enacted*, That said Trustees shall take charge of the fund named, or to be obtained from Congress under the act for the distribution of the proceeds of lands amongst the States and Territories, and also the Seminary fund in the Treasury, and the sum due from rent or occupancy of said Lands, which fund shall be loaned on bond and mortgage of real estate, unincumbered, and of unquestionable title, at eight per cent. interest, payable annually. Trustees to take charge of the land fund

Sec. 3. *Be it further enacted*, That said Trustees shall receive no compensation for their services.

Sec. 4. *Be it further enacted*, That said Trustees shall make an annual report to the Governor and Council, at the commencement of each session, of their acts and doings, receipts, contracts, &c. state of the fund, location of the land, value &c., to whom rented, price &c. Make report

Sec. 5. *Be it further enacted*, That persons in possession of Seminary Lands who shall refuse to deliver possession thereof when required, or who shall hereafter locate on said Lands without permission of said Trustees, shall be liable to be indicted, and on conviction thereof, be fined in a sum not exceeding four hundred dollars, or imprisoned not exceeding one year, at the discretion of a jury. Trespass.

Sec. 6. *Be it further enacted*, That said Trustees shall collect for rent, or for use and occupation, from such persons as have heretofore occupied any part of said Lands, such sum as may be adjudged, a fair compensation for the use thereof, and may institute suit therefor if necessary. Rent.

Approved 15th March, 1843.

No. XXXVII.

An act to amend the law concerning Depositions.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That where a witness whose testimony is wanted in any civil cause pending in this Territory, shall live more than thirty miles from the place of trial, or shall be about to go out of the Territory, and not to return in time for the trial, or is so sick, infirm, or aged, as to make it probable that he will not be able to attend at the trial, his deposition may be taken in the manner hereinafter provided. When depositions may be taken.

Sec. 2. *Be it further enacted*, That at any time after the cause is commenced by the service of process, or after it is submitted to arbitrators or referees, either party may apply to any justice of the peace, who shall issue a notice to the adverse party, to appear before the said justice or any other justice of the peace, at the time and place appointed for taking the deposition, and to put such interrogatories as he may think fit. Notice to be issued.

Sec. 3. *Be it further enacted*, That the said notice may be served on the agent or attorney of the adverse party, and shall have the

same effect as if served on the party himself. When there are several persons, plaintiffs or defendants, or parties on either side in the cause, a notice served on either of them shall be sufficient.

Manner of serving notice. Sec. 4. *Be it further enacted*, That the notice shall be served by delivering an attested copy thereof to the person to be notified, or by leaving such copy at his place of abode, allowing in all cases not less than twenty-four hours after such notice, before the time appointed for taking the deposition; and also allowing time for his travel to the place appointed, after being notified, not less than at the rate of one day (Lord's day excluded) for every twenty miles' travel.

Verbally. Sec. 5. *Be it further enacted*, That instead of the written notice before prescribed, the notice may, in all cases, be given verbally by the justice taking the deposition, or it may be wholly omitted, if the adverse party or his attorney shall in writing waive the right to it.

Swearing. Sec. 6. *Be it further enacted*, That the deponent shall be sworn or affirmed to testify the truth, the whole truth, and nothing but the truth, relating to the cause for which the deposition is taken; and he shall then be examined by the justice, and by the parties, if they think fit, and his testimony shall be taken in writing.

Written interrogatories. Sec. 7. *Be it further enacted*, That the party producing the deponent, shall be allowed first to examine him, either upon verbal or written interrogatories, on all the points which he shall deem material; and then the adverse party may examine the deponent in like manner—after which, either party may propose such further interrogatories as the case may require.

Sec. 8. *Be it further enacted*, That the deposition shall be written by the justice or by the deponent, or by some disinterested person, in the presence and under the direction of the justice; and it shall be carefully read to or by the deponent, and shall then be subscribed by him.

Certificate. Sec. 9. *Be it further enacted*, That the justice shall annex to the deposition a certificate of the time and manner of taking it, the person at whose request, and the cause or suit for which it was taken, and the reason for taking it, and stating also whether the adverse party attended; and if not, stating the notice, if any, that was given to him.

Sec. 10. *Be it further enacted*, That the deposition shall be delivered by the justice to the court, or arbitrators, or referees, before whom the cause is pending, or shall be enclosed and sealed by him, and directed by them, and shall remain sealed until opened by the said court, arbitrators, or referees.

Objections. Sec. 11. *Be it further enacted*, That every objection to the competency or credibility of the deponent, and to the propriety of any questions put to him, or of any answers made by him, may be made when the deposition is produced, in the same manner as if the witness were personally examined on the trial: *Provided*, That when any deposition is taken upon written interrogatories, all objections to any interrogatory shall be made before it is answered; and if the

interrogatory is not withdrawn, the objection shall be noted thereon, or otherwise the objection shall not be afterwards allowed.

Sec. 12. *Be it further enacted*, That when the plaintiff in any suit shall discontinue it, or become non-suit, and another suit shall afterwards be commenced, for the same cause, between the same parties or their respective representatives, all depositions lawfully taken for the first suit may be used in the second, in the same manner, and subject to the same conditions and objections, as if originally taken for the second suit: *Provided*, That the deposition shall have been duly filed in the Court where the first suit is pending, and shall remain in the custody of the Court, from the termination of the first suit until the commencement of the second.

Depositions
may be used
in a second
suit.

Sec. 13. *Be it further enacted*, That any witness may be summoned, and compelled to give his deposition, at any place within twenty miles of his place of abode, in like manner, and under the same penalties, as he may be summoned and compelled to attend as a witness in any court.

Summoning
witnesses.

Sec. 14. *Be it further enacted*, That when any person shall be desirous to perpetuate the testimony of any witness, he shall make a statement in writing, setting forth briefly and substantially his title, claim, or interest in or to the subject, concerning which he desires to perpetuate the evidence, and the names of all other persons interested or supposed to be interested therein, and also the name of the witness proposed to be examined, and shall deliver the said statement to two justices of the peace, one of whom shall be either a judge or register of probate, a clerk of the superior court, a master in chancery, or a counsellor at law, requesting them to take the deposition of the said witness.

Perpetuating
testimony.

Sec. 15. *Be it further enacted*, That the said justices shall thereupon cause notice to be given of the time and place appointed for taking the deposition, to all persons mentioned in said statement as interested in the case; which notice shall be given in the same manner as is prescribed in this chapter, respecting notice upon taking a deposition in this Territory, to be used in any cause here pending.

Sec. 16. *Be it further enacted*, That the deponent shall be sworn and examined, and his deposition shall be written, read, and subscribed, in the same manner as is prescribed respecting the other depositions before mentioned; and the justices shall annex thereto a certificate under their hands, of the time and manner of taking it, and that it was taken in perpetual remembrance of the thing; and they shall also insert in the certificate the names of the person at whose request it was taken, and of all those who were notified to attend, and of all who did attend the taking thereof.

Sec. 17. *Be it further enacted*, That the deposition, with the certificate, and also the written statement of the party at whose request it was taken, shall, within ninety days after the taking thereof, be recorded in the registry of deeds in the county where the land lies, if the deposition relates to real estate; otherwise, in the county where the parties, or some of them, reside.

Depositions,
certificate &c
to be record'd

Sec. 18. *Be it further enacted*, That if any suit shall, either at the

time of taking such deposition, or at any time afterwards, be pending between the person at whose request it was taken, and the persons named in the said written statement, or any of them, who were notified as aforesaid, or any persons claiming under either of the said parties, respectively, concerning the title, claim, or interest, set forth in the statement, the deposition so taken, or a certified copy of it, from the registry of deeds, may be used in such suit, in the same manner, and subject to the same conditions and objections, as if it had been originally taken for the said suit.

Sec. 19. *Be it further enacted*, That any witness may be summoned, and compelled to give his deposition in perpetual remembrance of the thing, as before prescribed, in like manner, and under the same penalties, as are provided in this chapter respecting other depositions taken in this Territory.

Manner of taking depositions out of the Territory

Sec. 20. *Be it further enacted*, That depositions to perpetuate the testimony of witnesses living without the Territory, may be taken in any other State, or in any foreign country, upon a commission to be issued by the Superior Court, or court of the county, in the manner hereinafter provided:—The person who proposes to take the deposition, shall apply to either of the said courts, and file therein a statement like that before prescribed, to be delivered to the justice of the peace, upon taking such a deposition within this Territory; and if the subject of the proposed deposition relates to real estate within this Territory, the statement shall be filed in the county where the land, or any part thereof, lies; otherwise, in the county where the parties, or some of them, reside.

Notice to the adverse party

Sec. 21. *Be it further enacted*, That the court shall order notice of such application and statement to be served on all the persons mentioned therein as adversely interested in the case, and living within the Territory; which notice shall be served fourteen days, at least, before the time therein appointed for hearing the parties.

Sec. 22. *Be it further enacted*, That if, upon such hearing of the parties, or of the applicant alone, should no adverse party appear, and the court shall be satisfied that there is sufficient cause for taking the deposition, they shall issue a commission therefor, in like manner as for taking a deposition to be used in any cause pending in the same court.

Sec. 23. *Be it further enacted*, That the person who proposes to take the deposition, may at his election file his statement in the clerk's office in vacation, and may cause notice thereof to be given to the persons therein named as adversely interested, and by serving them with an attested copy of the said statement fourteen days at least before the next term of the court; and the court may thereupon proceed to hear the parties, and to issue the commission as before provided.

Witnesses.

Sec. 24. *Be it further enacted*, That any witness may be summoned, and compelled in like manner, and under the same penalties as are prescribed in this chapter, to give his deposition in any cause pending in a court in any other state or government; which deposition may be taken before any justice of the peace in this

Territory, or before any commissioners that may be appointed under the authority of the state or government in which the suit is pending; and if the deposition is taken before such commissioners, the witness may be summoned, and compelled to appear before them, by process from any justice of the peace in this Territory.

Sec. 25. *Be it further enacted*, That no person shall be deemed an incompetent witness by reason of having committed any crime, unless he has been convicted thereof in this Territory; but the conviction of any person, in any court without the Territory, of a crime which, if he had been convicted thereof within this Territory, would render him an incompetent witness here, may be given in evidence to affect his credibility. Competency of witnesses.

Sec. 26. *Be it further enacted*, That the records and judicial proceedings of any court of another state, or of the United States, shall be admissible in evidence in all cases in this Territory, when authenticated by the attestation of the clerk, prothonotary, or other officer having charge of the records of such court, with the seal of such court annexed. Court records admissible in evidence.

Sec. 27. *Be it further enacted*, That the printed copies of all statutes, acts, and resolves of the commonwealth, whether of a public or private nature, which shall be published under the authority of the government, shall be admitted as sufficient evidence thereof, in all courts of law, and on all occasions whatsoever. Printed copies of acts and resolutions.

Sec. 28. *Be it further enacted*, That printed copies of the statute laws of any of the United States, or of the Territories thereof, if purporting to be published under the authority of the respective governments, or if commonly admitted and read as evidence in their courts, shall be admitted in all courts of law, and on all other occasions, in this Territory, as *prima facie* evidence of such laws.

Sec. 29. *Be it further enacted*, That the unwritten or common law of any of the United States, or of the Territories thereof, may be proved as facts by parol evidence; and the books of reports of cases adjudged in their courts, may also be admitted as evidence of such law.

Sec. 30. *Be it further enacted*, That the existence, and the tenor or effect, of all foreign laws, may be proved as facts, by parol evidence; but if it shall appear that the law in question is contained in a written statute or code, the court may, in their discretion, reject any evidence of such law, that is not accompanied by a copy thereof.

Approved 15th March, 1843.

No. XXXVIII.

An act to amend the Law in reference to Executions and Attachments.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That claim Bonds, and Replevy Bonds, whether under Execution or Attachment, shall be for double the value of the Bonds double the amount of the property claimed.

property claimed, and not in double the amount of the Execution or Attachment.

Approved 15th March, 1843.

No. XXXIX.

An act to revive in part the Revenue Laws, and provide for a Territorial Revenue.

Preamble

WHEREAS, for several years last past, the operation of the revenue laws has been suspended; by reason whereof, a considerable balance has accumulated against, and is due from, the Territory to sundry of her inhabitants; for the payment whereof no means have been provided, to the disrepute of the Territorial Government, and to the prejudice of the public creditors—paralyzing credit, diminishing labor, embarrassing her creditors, and withholding the payment of just demands,—for remedy whereof,

Tax on land.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That in addition to the revenue now derived from auction sales, fines, and other sources, there be assessed on all lands, which are private property, a tax after the rate of one quarter of a cent per acre, on all first quality lands; and one eighth of a cent per acre, on all other lands: *Provided, however*, tax shall be levied on no Spanish grant, unless the same shall have been recognized and allowed by the Government of the United States.

Proviso.

Assessment
and collection

Sec. 2. *Be it further enacted*, That for the purpose of carrying into operation the assessment and collection of the land tax aforesaid, that an act concerning tax collectors and for other purposes, approved March 4th, 1839, (except the eighth section of said act); and also, the first, second, third, fourth and fifth sections of an act, approved November 22d, 1829, entitled an act to amend an act entitled an act to raise a revenue for the Territory of Florida, approved November 22d, 1828, be, and the same are hereby, revived, and declared to be in full force and operation.

Sec. 3. *Be it further enacted*, That in case of injunction to prevent the collection of taxes under this act, it shall be the duty of the District Attorney of the district to attend to the same, and in case of success he shall be entitled to a fee of fifty dollars, to be taxed with the costs of the suit.

Tax on bank
agencies.

Sec. 4. *Be it further enacted*, That all agencies of banks, situated in this Territory, shall pay a tax of two hundred and fifty dollars per annum.

Sec. 5. *Be it further enacted*, That this act take effect, and be in operation, from and after the approval of the same by the Governor.

Approved 15th March, 1843.

No. XL.

An act to prevent Jailors from releasing Runaway Negroes until the conditions therein expressed are complied with.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That in all cases of the apprehension of Runaway Negroes, and their delivery to any Jailor within said Territory, it shall be the duty of the person so apprehending or delivering said Negro to the end of securing the reward offered for such apprehension and delivery, to furnish said Jailor with a copy in substance of the advertisement offering said reward, accompanied with written instructions, not to deliver said Negro on the application of the owner or other person, until such reward be paid, and to require of the Jailor a receipt for said copy, and instructions.

Runaways to be delivered to Jailor with written instructions.

Sec. 2. *Be it further enacted*, That whenever the terms of the first section of this act are complied with, if the Jailor shall deliver said Negro, without first securing the amount of said reward, and paying it over to the party interested in the same, on his application therefor, he shall on suit being brought in any court, having jurisdiction of the same, forfeit and pay to said party double the amount offered in said reward.

Jailor's duty.

Approved 15th March, 1843.

No. XLI.

An act to establish Warrants or Drafts upon the Territorial Treasury, where the same have been lost or mislaid.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That in all cases where warrants upon the Territorial Treasury shall be lost or mislaid, and the party shall wish to establish a copy thereof, on giving notice in some public gazette, for twenty-one days, of the fact of said loss, and of his intention to apply for the re-issue of said warrant or draft, it shall be the duty of the Auditor to re-issue the same: *Provided*, The party applying for such warrant or draft, shall give bond and security in double the amount thereof, conditioned to indemnify the Territory against all demands it may thereafter be required to pay, in consequence of the original warrant or draft: *And provided, also*, That the party applying therefor shall make affidavit that the said warrant or draft has been lost, mislaid, or destroyed, without any design of said party, and in case of loss, that he has made diligent search therefor, and cannot find the same.

Public notice

Provisos.

Approved 15th March, 1843.

No. XLII.

An act to authorize William Faill to establish a ferry across the St. John's River, at Enterprize.

For the term
of ten years.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida,* That William Faill, of the County of Mosquito, be, and is hereby authorized and vested with the right of establishing a ferry across the St. John's river at a place known as Enterprize, and that the above named William Faill, his heirs, executors or administrators, shall keep the said ferry with suitable Boats and Flats in good order for the passage of carriages and other vehicles, for the term of ten years from and after the passage and approval of this act, and should the said William Faill, his heirs, executors or administrators fail to establish a ferry, and furnish the necessary Boats or Flats for the above named ferry, for the period of six months from and after the passage of this act, then his right to establish a ferry at the above named place shall be void.

Sec. 2. *Be it further enacted,* That it shall be unlawful for any person or persons to establish a ferry within five miles of said ferry, except it be for his or their own use, and not for the purpose of gathering toll.

Sec. 3. *Be it further enacted,* That the rates of ferriage at the ferry established by virtue of this act, shall be regulated by the County Court of Mosquito County.

Approved 21st February, 1843.

No. XLIII.

An act to authorize Thomas Walker to establish a Ferry on the Alapahaw River.

For the term
of ten years.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida,* That Thomas Walker be, and he is hereby, authorized to establish, and charged with the duty of keeping, a ferry on the Alapahaw river, in Hamilton county, at the old Indian Ford, for and during the term of ten years from the passage of this act.

Sec. 2. *Be it further enacted,* That the said Thomas Walker, his heirs and assigns, shall at all times keep a good and sufficient flat, or ferry-boat, at said ferry, to cross loaded waggons and teams; and he, or they, shall receive such rates of ferriage as may be established, from time to time, by the County Court of Hamilton county, and be subject to the orders of said Court.

Sec. 3. *Be it further enacted,* That if the said Thomas Walker shall fail to establish a ferry within six months from the passage of this act, then the rights and privileges granted by this act are to be void.

Sec. 4. *Be it further enacted*, That it shall not be lawful for any other person, or persons, to establish a ferry within three miles (by water) of the said location, unless for his or their own use, and not for taking toll.

Sec. 5. *Be it further enacted*, That this act shall, at any time hereafter, be subject to be amended, modified or repealed, by any future Legislature of the Territory of Florida.

Approved 21st February, 1843.

No. XLIV.

An act to extend a charter granted to David Platt, February 8th, 1839.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That a certain charter for a Ferry across the Suwannee river, at or near the junction of said river and Withlacoochee, granted February the 8th, 1839, to David Platt, be extended to the said Platt for the term of ten years from the 8th of February, 1843, subject to the regulations contained in the act of 1839. For ten years

Approved 21st February, 1843.

No. XLV.

An act to authorize E. G. Miller to establish a Ferry on the Ocklockonnee river.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That E. G. Miller be, and he is hereby authorized to establish, and charged with the duty of keeping, a Ferry, at a place known as Ponto, near the Florida and Georgia line, on the Ocklockonnee river, for and during the term of ten years from the passage of this act. For ten years

Sec. 2. *Be it further enacted*, That the said E. G. Miller, his heirs and assigns, shall at all times keep a good and sufficient flat at said ferry, to cross loaded wagons and teams, and he or they shall receive such rates of ferriage as may be established from time to time by the County Court of Gadsden County, and be subject to the orders of said Court. Conditions.

Sec. 3. *Be it further enacted*, That it shall not be lawful for any other person to establish a Ferry within three miles of said location, unless for his or their own use, and not for taking toll: *Provided, however*, That no portion of this act shall be so construed as to prevent the citizens at any time from building or constructing such public bridge as they may deem necessary and sufficient, at said location. Proviso.

Sec. 4. *Be it further enacted*, That this charter shall be subject to be amended or repealed by any future Legislature of the State or Territory of Florida.

Approved 21st February, 1843.

No. XLVI.

An act to fix the time of holding the Superior Courts in the District of East Florida.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the several terms of the Superior Court, directed by any laws of the Legislative Council to be held in East Florida, in the different counties thereof, shall be held at the following times and places :

At St. Augustine, for the counties of St. Johns and Mosquito, on the second Mondays of March and November, in each year.

At Jacksonville, for the county of Duval, on the first Mondays of May and December, in each year.

At Newnansville, for the counties of Alachua and Hillsboro', on the second Monday in April and on the third Monday in December, in each year.

At Lancaster, for the county of Columbia, on the third Monday in April and on the fourth Monday in December, in each year.

At the Court-House in Nassau county, for the county of Nassau, on the fourth Monday in April and on the fourth Tuesday in November, in each year.

Repeal. Sec. 2. *Be it further enacted*, That all laws of the Legislative Council of this Territory, requiring the terms of said Court to be held at any other times, and places, than those above designated, or which are inconsistent with this act, be, and the same are hereby repealed : *Provided, however*, That another regular term of said Court, for the trial and hearing of land claims, and for the hearing and decisions of the causes in chancery, or on the equity side of said Court, shall be held once during the Summer months, in each year, at such time and place as the Judge may appoint, if in his opinion the public interest may require it.

Proviso. Process issued Sec. 3. *Be it further enacted*, That all process issued from the Clerk's office of the Superior Courts for any of said counties at any time before the fifteenth day of March, 1843, and made returnable on the days heretofore designated by law, shall be as valid as if made returnable to the terms in this act established.

Approved 21st February, 1843.

No. XLVII.

An act to authorize James Bryan to establish a ferry across the Suwannee River, at a place known as the Indian Ford.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That James Bryan be, and he is hereby authorized to establish a ferry across the Suwannee river, at a place known as the Indian Ford ; between the mouths of Swift Creek and Rocky Creek, which empty into said River.

Sec. 2. *Be it further enacted*, That the said James Bryan, his heirs and assigns, shall at all times keep a good and sufficient Flat at said Ferry to cross loaded waggons and teams, and he or they shall receive such rates of ferriage as may be established from time to time, by the County Court of Hamilton County, and shall be subject to the orders of said Court; the privileges of this charter to extend for five years. Five years.

Sec. 3. *Be it further enacted*, That this act shall at any time hereafter be subject to be amended, modified, or repealed by any future Legislature of the State or Territory of Florida.

Approved 22d. February, 1843.

No. XLVIII.

An act more particularly to define the eastern boundary line of Jefferson county.

SECTION 1. *Be it enacted by the Governor and the Legislative Council of the Territory of Florida*, That Gum Swamp shall be the Eastern Boundary line of Jefferson County, commencing at the Georgia line, thence down said Swamp to the line dividing ranges six and seven, following said line to the Little Ocilla, thence down said stream to the Big Ocilla, the present boundary line of said County. Gum swamp.

Sec. 2. *Be it further enacted*, That so much of the act defining the boundary line of Jefferson County as conflicts with this act, be, and the same is hereby repealed.

Approved 22d February, 1843.

No. XLIX.

An act to amend an act entitled "An act to authorize Bryant Sheffield to establish a Ferry across the Suwannee river, at the upper Mineral Springs, known as the White Sulphur Springs," approved 4th March, 1842.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the time limiting the establishing the said ferry to six months from the passage of said act, which was approved the 4th March, 1842, be, and the same is hereby, extended to six months from the passage of this act. Extension of time.

Sec. 2. *Be it further enacted*, That the second section of said act be, and the same is hereby, repealed.

Approved 22d February, 1843.

No. L.

An act to authorize William Raulison to establish a Ferry across the North Prong of St. Marys River.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That William Raulison be, and he is hereby, authorized to establish, and charged with the duty of keeping a ferry on the North prong of St. Marys river, one mile

from Fort Moniac, for and during the term of five years from and after the passage of this act.

Conditions.

Sec. 2. *Be it further enacted*, That the said William Raulison, his heirs and assigns, shall at all times keep a good and sufficient flat or ferry-boat, to cross loaded wagons and teams; and he or they shall receive such rates of ferriage as may be established from time to time by the County Court of Columbia county, and shall be subject to the orders of said Court.

Sec. 3. *Be it further enacted*, That it shall not be lawful for any person or persons to establish or keep a ferry within five miles of said ferry on said river, unless the same be toll free, or for his or their individual use.

Sec. 4. *Be it further enacted*, That if the said William Raulison shall fail to establish said ferry within six months from the passage of this act, then the rights and privileges granted by this act to be void.

Sec. 5. *Be it further enacted*, That this act shall at any time be subject to the amendment, modification, or repeal of any future Legislature, either as a Territorial or State Government.

Approved 22d February, 1843.

No. LI.

An act to organize a county to be called Hernando county.

Boundaries.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the district of country bounded as follows, to wit—beginning at the mouth of the Withlacoochee river, and running along said river to the head waters thereof; thence running a line to the head waters of the Hillsboro' river; thence down said river to Fort Foster; thence running due west to the Gulf of Mexico; thence along the Gulf of Mexico to the mouth of the Withlacoochee river, the point of beginning, including all land and islands which said rivers, lines, and Gulf, may enclose—shall constitute a county to be called Hernando county.

Appointment of officers.

Sec. 2. *Be it further enacted*, That for the protection and administration of justice in the county established by this act, the Governor of this Territory be, and is hereby empowered, to appoint such officers as he is or may be authorized to appoint in the different counties of this Territory.

Election.

Sec. 3. *Be it further enacted*, That the legal voters of said county be, and are hereby authorized to elect such officers, civil and military, as are authorized by law in the several counties of this Territory; and the officers so elected shall hold their offices for the same period, exercise the same powers, incur the same penalties, and be entitled to the same compensation and emoluments, as is or may be by law provided for the officers of the same stations within the several counties of this Territory.

Sec. 4. *Be it further enacted*, That the time for holding elections for officers authorized to be elected by the third section of this act, shall be designated by the Judge of the County Court of said county, and whenever any vacancy shall occur, the Judge aforesaid shall order elections to fill such vacancy.

Sec. 5. *Be it further enacted*, That the Judge of the County Court to be appointed by virtue of this act, shall hold two terms of Co. Court. his Court, beginning on the third Monday in April, and the third Monday in October, in each and every year; which Courts shall be held at the house of Isaac Garrison, at Chuckachatee, until a permanent county site be selected and established.

Sec. 6. *Be it further enacted*, That the voters resident in said county, who are by law qualified to vote for members of the Legislative Council, shall, at the time of the election held for electing the different county officers, authorized by the third section of this act, elect five commissioners, whose duty it shall be to select and locate a permanent county site, on some unoccupied spot of land, as near as practicable to the centre of said county. Co. Site.

Sec. 7. *Be it further enacted*, That the Superior Court for the Eastern District, now directed by law to be held at Newnansville, shall be held for the counties of Alachua, Hernando, and Hillsboro', as heretofore; and all suits to be brought or commenced in the Superior Court against persons residing in either of those counties, may be brought in the said Court held at the place aforesaid; and all process in such suits shall be made returnable at the terms of the said Court, to be held at Newnansville, aforesaid. Sup. Court.

Sec. 8. *Be it further enacted*, That all suits or actions, of whatever kind, pending in the Superior Courts, or County Courts of Alachua County, against any person or persons residing within the boundaries of Hernando County, together with all papers and documents, of whatever kind, connected with such suit or suits, action or actions, shall, within thirty days after notice from the Clerks of the Superior Court and County Court of said Hernando County, be delivered to them respectively; and the said suits, actions, prosecutions, or causes, shall stand upon the dockets in said Hernando County: but no portion of this act is to be so construed as to transfer any suit or action that has been or may be commenced in the Superior or County Courts of Alachua County against any person or persons residing within the boundaries of Hernando County, until such Superior or County Courts be duly organized and established. Transfer of suits &c.

Sec. 9. *Be it further enacted*, That from and after the passage of this act, the county of Hernando shall be entitled to one Representative in the House of Representatives of the Legislative Council of the Territory of Florida. Representative.

Sec. 10. *Be it further enacted*, That all laws, and parts of laws, conflicting with the provisions of this act, be, and the same are hereby repealed; and that this act shall be in force from and after its passage.

Approved 24th February, 1843.

No. LII.

An act for the relief of Andrew Scott.

Payment.

Proviso.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the Commissioner of the city of Tallahassee, be, and hereby is instructed and authorized; to pay to Andrew Scott, or his legally constructed attorney, heirs, or assigns; such sum of money as may remain of the sum of three thousand six hundred and forty seven dollars and forty cents; after deducting any sum or sums of money, which may have heretofore been paid to the said Scott, on account of his contract with the late commissioner, for plastering and ornamenting the several rooms of the Capitol of this Territory: *Provided, nevertheless,* That the said Scott execute a receipt in full of all demands against the Territory, for, or on account of plastering, and ornamenting the said room; up to the date hereof.

Approved 11th March, 1843.

No. LIII.

An act to repeal an act entitled "An act to prevent the future migration of Free Negroes or Mulattoes to this Territory, and for other purposes."

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That an act entitled "An act to prevent the future migration of free negroes or mulattoes to this Territory, and for other purposes," approved on the 15th day of March, 1842, be, and the same is hereby, repealed; and that all acts and parts of acts by the said act repealed, are hereby revived.

Approved 22d February, 1843.

No. LIV.

An act to incorporate the Stewards of the Methodist Episcopal Church of the Leon Circuit, of the Territory of Florida.

Incorporation

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida,* That from and after the passage of this act, Kenneth Bembry, Thomas L. Hall, Richard Burney, Edward Footman, Henry B. Ware, Paul H. Harley and Adam Grambling, now Stewards of the Leon Circuit aforesaid, and their successors in office, to be appointed according to the rules, regulation and discipline of the Methodist Episcopal Church, be, and they are hereby, made and constituted a body politic and corporate, and by that name may sue and be sued, plead and be impleaded, in any court of law or equity in this Territory, and may have and use a common seal, and the same may break or alter at pleasure.

Sec. 2. *Be it further enacted by the authority aforesaid,* That the said body corporate and politic may hold any real or personal estate by way of donation or otherwise, and the same may convey or dispose of for the benefit of the said Church in said Circuit, and not otherwise: *Provided,* That they, or their successors in office, shall not invest said funds, or any portion thereof, in the purchase of any real or personal estate not necessary to the proper exercise and functions of the said Methodist Episcopal Church in said Circuit: *And provided further,* That nothing in this act shall be so construed as to prevent said corporation from taking any mortgages, deeds, or other conveyances, for the purpose of securing debts due to said corporation, or from receiving any donations to said corporation for the benefit of said Church in said Circuit: *And provided further,* That said corporation shall not at any time own property to an amount exceeding fifty thousand dollars.

Powers.

Provisos.

Sec. 3. *Be it further enacted by the authority aforesaid,* That all laws and parts of laws militating against this act, be, and the same are hereby, repealed.

Sec. 4. *Be it further enacted,* That this act shall, at any time hereafter, be subject to be amended, modified or repealed by any future Legislation.

Approved 13th March, 1843.

No. LV.

An act to change the name of a person therein mentioned.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act, Matias Lorenzo, (a minor,) of the city of St. Augustine, may take the name of Matias Andrew; and said name allowed shall hereafter be considered at his only proper and legal name, for all intents and purposes.

Approved 14th March, 1843.

No. LVI.

An act to authorize the County Court of Alachua County, to raise a County Revenue.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida,* That for the purpose of enabling the County Court of Alachua County to build a Court House, Clerks Office, and Jail, and to raise funds for other County purposes, the Judge of said County Court, be, and he is hereby authorized to call an extra term of his Court, and a majority of all the Justices of said County, being present and assenting thereto, may levy a tax on all lands which are private property, of not less than one half of a cent, nor more than one cent per acre: *Provided,* That no tax be levied on any Spanish Grant, which has not been recognized and allowed by the Government of the United States.

Levy taxes.

Proviso.

Assessors. Sec. 2. *Be it further enacted*, That for the purpose of carrying into effect the foregoing section of this act, the Judge of the County Court, be, and he is hereby authorized to appoint such assessors and collectors as he may deem necessary for the assessment and collection of such Taxes, which when collected shall be deposited in the County Treasury, for County purposes.

Approved 14th March, 1843.

No. LVII.

An act to authorize John G. Swan to establish a Ferry across the Withlacoochee River, at Fort Izard.

Proviso. SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That John G. Swan, of Alachua county, be, and is hereby, authorized and vested with the right of establishing a ferry across the Withlacoochee river, at a place known as Fort Izard, and have the enjoyment of the right of said Ferry for and during the term of ten years : *Provided*, That the said John G. Swan, his heirs, executors or administrators, shall keep the said ferry with suitable boats and flats, in good order for the passage of carriages and other vehicles ; and should he, or they, fail to do so within ninety days from the passage of this act, all the rights and privileges herein vested shall be forfeited.

Sec. 2. *Be it further enacted*, That the said John G. Swan, his heirs, executors or administrators, shall receive such toll, and shall be subject to such regulations, as shall be established by the County Court of Alachua County ; and it is hereby declared to be unlawful for any person to establish any ferry or bridge within five miles of said ferry, unless it be for his or their own use, and not for the purpose of gathering toll.

Sec. 3. *Be it further enacted*, That this act shall at any time be subject to amendment, modification or repeal, by any future Legislature of the Territory or State of Florida.

Approved 14th March, 1843.

No. LVIII.

An act to incorporate the Quincy Light Horse.

Incorporation Proviso. SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That William F. Stockton, Capt., Charles M. Harris, John W. Poindexter and others, their successors and associates, be, and they are hereby, declared and constituted a body politic and corporate, by the name and style of the Quincy Light Horse ; and shall have power and authority to make all such bye-laws and regulations as may be necessary for the Government of said company : *Provided*, Such bye-laws and regulations shall not be repugnant to the Constitution and Laws of the United States or of this Territory, but said company shall not be subject to the orders of any militia officer under the rank of Colonel, nor shall such

disposition be made of it, while on parade, as to prevent it from acting together as an entire company.

Sec. 2. *Be it further enacted*, That the commissioned officers of said company, and their successors in office, under the name and style of the Quincy Light Horse, shall and may have and use a common seal corporate, and the same to alter, destroy and resume at their pleasure; and they are hereby made capable of accepting, holding, and being invested with all manner of donations, gifts, grants, &c. whatsoever, which may belong to said company, or which may hereafter be conveyed or transferred to them or their successors, to have and to hold the same for the proper benefit and behoof of said company. Powers.

Sec. 3. *Be it further enacted*, That when any vacancy shall happen by death, resignation or otherwise, in the officers of said company, the same shall be filled in such manner as shall be pointed out in the bye-laws of said company.

Sec. 4. *Be it further enacted*, That said company shall be known by the name and style of the Quincy Light Horse.

Sec. 5. *Be it further enacted*, That no property shall be held to the use of said company, nor shall said company own property, to an amount and value exceeding one thousand dollars; and this act shall at any time hereafter, be subject to be amended, modified or repealed, by any future Legislature of the State or Territory of Florida. Limitation.

Approved 14th March, 1843.

No. LIX.

An act to admit George W. Call, Jr., to practice law in the several Courts in this Territory.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That George W. Call, Junior, shall be admitted to practice as an attorney and counsellor at law in the several courts of law and equity in this Territory, provided that the said George W. Call, Junior, shall first be examined, and declared qualified therefor, by one of the Judges of the Superior Courts of this Territory, or such persons as he may appoint.

Approved 14th March, 1843.

No. LX.

An act to prevent the removal of stakes and buoys from the channel in the Bay of Apalachicola.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That from and after the passage of this act, it shall not be lawful for any person or persons wilfully to remove, or run down any stake, buoy, or other mark, designating the channel in the bay of Apalachicola.

Penalty. Sec. 2. *Be it further enacted*, That if any person or persons shall so remove or run down any stake, buoy, or other mark, designating the channel in the aforesaid bay, he, she or they shall, upon conviction before any court having competent jurisdiction, be liable to indictment, and punishable in a sum of not more than four, nor less than two hundred dollars, or imprisonment in a term of not more than six, nor less than three months.

Approved 14th March, 1843.

No. LXI.

An act to alter and change the name of Amanda S. Mandal, of Jackson county.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the name of Amanda S. Mandal, of Jackson county, be, and is hereby changed to Amanda S. Bryan.

Approved 14th March, 1843.

No. LXII.

An act to amend an act incorporating the city of St. Joseph.

Council. SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the government of the city of St. Joseph shall be vested in a person to be called the Mayor, and four Aldermen, who shall compose a Council for the management of the affairs of the city. The said Mayor and Aldermen shall be elected annually on the first Monday of April, from amongst the qualified voters of said city.

Sec. 2. *Be it further enacted*, That the second section of an act amendatory to the several acts incorporating the city of St. Joseph, approved 30th January, 1838, be, and the same is hereby repealed.

Approved 14th March, 1843.

No. LXIII.

An act to incorporate the Apalachicola Guards.

incorporation SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the company now organized in the city of Apalachicola, and known as the "Apalachicola Guards," shall be, and is hereby constituted an independent company, to be called the "Apalachicola Guards."

Powers. Sec. 2. *Be it further enacted*, That said company shall have power to elect their own officers, and pass such by-laws and regulations as they may deem proper and expedient for their management and government; and that the officers already elected shall remain in their respective commands till they resign or are removed.

Sec. 3. *Be it further enacted*, That the said company shall be exempt from all parades, except at such times and places as are now set apart and provided for by law.

Sec. 4. *Be it further enacted*, That the said company shall, in all other respects, be subject to the militia regulations of this country. Duties.

Sec. 5. *Be it further enacted*, That said company shall at no time exceed one hundred in number, including commissioned, non-commissioned officers, and privates; and that commissions be issued by the Governor to George S. Hawkins, Captain; Robert Myers, first Lieutenant; William H. Kain, second Lieutenant; and H. D. Darden, third Lieutenant. Officers and privates.

Sec. 6. *Be it further enacted*, That this act shall be in force from and after its passage.

Approved 14th March, 1843.

No. LXIV.

An act to amend an act entitled an act to establish a board of Port Wardens, and Commissioners of Pilotage for the Port of Key West.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That from and after the passage of this act, the Governor, by the consent of the Legislative Council of the Territory of Florida, be, and he is hereby authorized to appoint ten discreet and proper persons to act as Port Wardens for the Port of Key West, and four of whom shall be a competent board for the transaction of business. Appointm't

Sec. 2. *Be it further enacted*, That the first section of the act relative to Port Wardens &c., passed and approved 20th of February 1840, be, and the same is hereby repealed.

Approved 14th March, 1843.

No. LXV.

An act exempting certain property from Execution, Attachment and Distress.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the necessary wearing apparel and bedding of every person, and the necessary wearing apparel, bedding and kitchen furniture of every family, shall be exempt from execution, attachment and distress. Wearing apparel, &c.

Sec. 2. *Be it further enacted*, That the following property may be claimed as exempt from execution, attachment and distress, except for violation of the criminal laws:

The boat and gun of every fisherman, pilot, or resident upon any island or coast, or in any bay, harbour or inlet of the Territory; and the boat and flat of every ferryman, when, in either case, the same shall not exceed in value one hundred dollars: Boats, flats, gun, &c.

Clergyman's horse, &c. The horse, saddle and bridle, or the horse, saddle, vehicle and harness of every clergyman, not exceeding in value one hundred dollars :

Physician's books, &c. The horse, saddle and bridle, medicine and professional books, and instruments of every surgeon, midwife or physician, not exceeding in value one hundred dollars ; one set of working tools or instruments of every mechanic, artist, dentist, artisan or tradesman, not exceeding in value one hundred dollars :

Farm's horse The horse and gun, not exceeding in value one hundred dollars, belonging to every farmer who is in actual cultivation of five or more acres of land within the Territory :

Family support. Every actual house-keeper, with a family, may claim as exempt such portion of his property as may be necessary to the support of himself and family not to exceed in value one hundred dollars, thereby waiving claim to all right to other exemption of property afforded by this section : *Provided in every case*, The defendant is not removing out of Territory, nor resides beyond the limits thereof, nor is removing his property beyond the limits of the same, nor is secreting or fraudulently disposing of his property for the purpose of avoiding the payment of his just debts : *And provided, also*, The defendant shall make affidavit that he has made a fair, full and complete statement of all his property in trust, or otherwise, of all moneys, debts and demands due, or to become due, which statement shall be signed by him, and with the affidavit accompany the return of the process.

Provisos

Valuation. Sec. 3. *Be it further enacted*, That when an exemption is claimed under the last foregoing section of this act, the officer having such execution, writ of attachment, or warrant of distress, shall summon three disinterested house-keepers to value the property of the defendant, and the valuation by them made and signed, and sworn to before an officer, shall be conclusive.

Approved 15th March, 1843.

No. LXVI.

An act to amend the Charter of the Bank of Florida.

Former liabilities. SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the District Attorney shall, on satisfactory evidence that the Bank of Florida has discharged all its former liabilities, dismiss any proceedings he may have instituted for the purpose of annulling its charter.

Failure. Sec. 2. *Be it further enacted*, That on failure of said Bank at any time, to redeem its notes in specie, for thirty days, the Legislative Council shall have the privilege of annulling its charter, and of appointing commissioners to sequester its assets and wind up its affairs as speedily as practicable.

Sec. 3. *Be it further enacted*, That the stockholders of the Bank of Florida shall be, and they are hereby, made responsible in their

private and individual capacities to the amount of three times the stock owned by each stockholder respectively, for the circulation and liabilities of said Bank, issued or created before and during the period of the ownership of such stock, or created within six months after the transfer of such stock ; and if said Bank should at any time fail or refuse to discharge and pay such circulation or liabilities, an action of debt shall be maintainable against such stockholder ; and where suits for the liabilities of said Bank are instituted against any one stockholder, to a greater amount than three times his stock, the judgment first obtained shall have precedence in satisfaction.

Stockholders respon'ble for three times the amount of their stock.

Sec. 4. *Be it further enacted*, That books of subscription for four thousand shares of the capital stock of said Bank, shall be opened in Tallahassee immediately after this law goes into operation, under the superintendence of Messrs. L. A. Thompson, Henry Bond, Patrick Kerr, R. W. Williams and James Kirksey, as commissioners ; who shall give notice thereof by publication, and shall keep said books of subscription open until the first day of January, 1844, unless said stock be sooner subscribed for.

Books of subscription.

Sec. 5. *Be it further enacted*, That five per cent. on each share shall be paid in gold or silver, or the Treasury notes of the United States, at the time of subscribing, and for the purpose of reimbursing the present stockholders for the expense incurred in the purchase of said charter, there shall be paid one per cent. on each share.

Payments.

Sec. 6. *Be it further enacted*, That for the first six months no one person shall be allowed to subscribe for more than three hundred shares of said stock ; and if on the first of January, eighteen hundred and forty-four, more stock is subscribed for than the amount for which said books were opened, then there shall be first a reduction from the shares of all persons, whether present owners or future subscribers, who hold more than one thousand shares ; and if by this means the deficiency be not supplied, then the deduction shall be on all new subscribers—taking, in the first place, from the largest subscriptions, until such subscriptions are reduced to three hundred shares ; but no subscriber of only three hundred shares shall be subject to any such deduction ; and the shares thus taken from the larger stockholders shall be distributed among those stockholders who own less than three hundred shares.

Stock.

Sec. 7. *Be it further enacted*, That no stockholder of said Bank shall be allowed to become indebted to said Bank either as a borrower, security or endorser.

Sec. 8. *Be it further enacted*, That should said Bank at any time, either from the culpable neglect or fraud of the Directors or officers thereof, fail to redeem its liabilities in specie, the Directors and officers so offending shall be liable to indictment, and on conviction may be imprisoned for any length of time not exceeding ten years, at the discretion of the jury.

Failure and penalty.

Sec. 9. *Be it further enacted*, That said Bank, in addition to exchanges, may exercise the privileges of said charter in propor-

tion to the capital paid in : *Provided, however,* That the issues of said Bank shall not exceed two dollars to every one actually paid in, or on deposit.

Sec. 10. *Be it further enacted,* That in case these amendments are not accepted within sixty days after the passage thereof, by notice addressed to the Governor, they shall thenceforth be null and void.

Suspension of specie pay'ts and penalty. Sec. 11. *Be it further enacted,* That if the said Bank shall suspend specie payment for the space of sixty days, the President and Cashier shall be deemed to be guilty of felony, and on conviction, shall be fined in a sum not exceeding twenty thousand dollars, and imprisoned not exceeding five years, at the discretion of the Court ; the Directors shall be deemed to be guilty of a misdemeanor, and on conviction shall be imprisoned not exceeding two years, or fined not exceeding five thousand dollars, at the discretion of the Court ; and the stockholders shall be individually liable in all their property for the redemption of the liabilities of the said Bank.

Sec. 12. *Be it further enacted,* That the charter of this Bank shall not be sold to, or be united to, any other corporate institution, otherwise the charters of both institutions shall be forfeited.

Interest. Sec. 13. *Be it further enacted,* That if said Bank shall suspend the payment of specie for the space of sixty days, at any one time, then this charter is hereby declared forfeited ; and upon any demand made by any bill-holder of said Bank, and a refusal to pay the same in specie, the said Bank shall be liable for interest at the rate of twenty-five per centum per annum.

Trustees. Sec. 14. *Be it further enacted,* That if said Bank shall suspend as aforesaid, it shall and may be competent for any Judge of the Superior Court, upon motion made, to appoint Trustees to take charge of all books, papers, moneys and effects, in the possession, power or control of said Bank.

Wind up. Sec. 15. *Be it further enacted,* That the said Trustees shall proceed to wind up the affairs of said Bank, under such direction as the said Judge may direct.

Transfer of stock. Sec. 16. *Be it further enacted,* That no transfer of stock shall be considered as valid in law, until notice shall have been given in some newspaper, published in Tallahassee, for the term of two weeks, stating the name of the purchaser and seller of said stock.

Sec. 17. *Be it further enacted,* That this act shall, at any time hereafter, be subject to be amended, modified or repealed, by any future Legislature of the State or Territory.

Sec. 18. *Be it further enacted,* That nothing contained in the foregoing charter shall be so construed as to allow said Bank, at any time, to issue more than two dollars of their notes and bills for one dollar of stock in specie actually paid in, exclusive of deposits.

Approved 15th March, 1843.

No. LXVII.

An act to suspend the exercise of banking power by the Union Bank of Florida—to provide for the payment of the Territorial bonds issued to said Bank, out of its assets, and the mortgaged property of its stockholders—for the liquidation and settlement of the affairs of said Bank, and for the amendment of the charter thereof.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That from and after the time this law shall take effect, all powers conferred by the charter of the Union Bank of Florida, and the different acts amendatory thereof, authorizing said Bank to exercise the ordinary banking powers of a bank of discount and circulation—by issuing its bills or notes for circulation, and discounting notes, bills, checks, or other securities for the payment of money or other thing whatsoever—shall cease and determine until said Bank shall have permanently resumed the payment of its liabilities in specie, for the space of twelve months, and until such resumption, it shall not be lawful for said Bank, by any contract whatever, to increase its indebtedness or liabilities: *Provided, however*, That nothing in this act contained shall be so construed as to prevent said Bank from incurring or discharging such debts as may be necessary in conducting its ordinary business, such as the employment and payment of its officers and agents and defraying its incidental expenses, nor shall any thing in this act be so construed as to prevent said Bank from exchanging one liability for another, refunding its deposits, renewing and curtailing paper held by the Bank, held at this time or that may be received in exchange or payment for other securities owned by the Bank, or from the exercise of such general powers as may be necessary for the speedy collection of its debts and the settlement of its affairs.

Banking power
suspended.

Proviso.

Sec. 2. *Be it further enacted*, That to facilitate the more speedy and effectual settlement of the affairs of said Bank, there shall in future be only seven directors thereof, three of whom shall be appointed in manner and time specified in said charter, and four elected by the stockholders, in the same manner and at the same time as is now provided for, who shall hold their offices for the same length of time, to be re-elected and appointed, respectively, in the same manner, and in all things represent and take the place of the Directors heretofore provided by law, except so far as their powers are curtailed and abridged by this act.

Directors and
their duties.

Sec. 3. *Be it further enacted*, That the election of the first four Directors, under this law, shall take place within thirty days after the same goes into operation, who shall serve till the next regular day of holding elections for Directors, as provided for by the charter and by-laws of said Bank, and elections shall be made thereafter, on the days and times as now directed, and the appointment of the Territorial Directors shall be made within the said thirty days as aforesaid, and shall be appointed annually in the same manner, and at the same time as is now provided for in case of Territorial Di-

Elections.

rectors, and in all action by said Bank, the concurrence of four Directors shall be necessary.

Failure of a stockholder to pay his stock note and proceed's thereon.

Sec. 4. *Be it further enacted*, That upon a failure of a stockholder, for the space of ninety days, to pay up his stock note, or to renew the same and pay up the interest thereon, for the time to which it may have been renewed, said Bank may or may not forfeit his stock, but no lien on the property of such stockholder to secure the stock bond or other indebtedness whatever, shall thereby be released or in any wise affected, and if a forfeiture of stock shall be declared, it is hereby made the duty of said Bank to institute suit against such stockholder, as well for the amount of the stock note or stock debt, as for the interest due thereon, and on obtaining judgment, to sell so much of the property of such stockholder as will be sufficient to pay said judgment, disposing first of the unmortgaged property of such stockholder, and if a sufficient amount thereof cannot be found to satisfy said judgment, then the proper officer shall proceed to sell as provided by law in other cases of execution, disposing first of the personal property, so much of the estate of such stockholder, mortgaged to said Bank to secure the payment of principal and interest of the Bonds issued by the Territory for the purpose of raising the capital of said Bank, as will be sufficient to pay off and discharge the full amount of such judgments, interest and costs, and the purchaser of such property shall hold the same fully and entirely released from all lien created thereon by reason of such mortgage; and the stockholder having his property sold as aforesaid, shall not be entitled to any further loan on his stock, nor shall he be released from any part of his stock note or stock bond, or other indebtedness to said Bank, by reason of such forfeiture or sale, except for so much as is paid by such sale or otherwise.

Sales.

Sec. 5. *Be it further enacted*, That in sales made under the provisions of the fifth section of this act, bids and payments in specie, or par funds, shall be received and taken at the rate, in Territorial Bonds fixed by the Directors, as provided in the fifth section of this act; and credits on the execution, mortgage or stock-debt, shall be given to the amount of the Territorial Bonds cancelled.

Liens not to be released till Bonds are cancelled.

Sec. 6. *Be it further enacted*, That the lien created by said mortgage shall, in no case, be released until the Territorial Bonds, for which such property is mortgaged, shall be cancelled by the proper officer; and no Territorial Bonds shall be received in payment for such mortgaged property, which have been hypothecated and not sold according to law; and at the time the said Bank shall notify the Governor of Florida of its acceptance of these amendments, it shall also furnish the Governor of Florida with a statement of the Territorial Bonds sold, and also, a statement of Territorial Bonds hypothecated, with a sufficient description of the same to enable him to identify them.

Sec. 7. *Be it further enacted*, That payment for such property sold as aforesaid, shall be made in gold or silver, or par funds, or in Territorial Bonds, issued as aforesaid: *Provided, however*, That if such sale be made for Bonds, as aforesaid, the same shall not

take place, unless there is bid and paid, for each piece of property, a sum equal to that for which such property is mortgaged for stock ; and if the sale is made for specie funds, such sale shall not take place, unless there is bid and paid, for each piece of property sold, a sum sufficient to purchase an amount, in Territorial Bonds, equal to that for which such property is mortgaged ; and the value of such Bonds, on the respective days of sale, shall be certified by the Directors of such Bank, and announced by the officer before the sale ; and, in the event of the sale being made for gold or silver, the proceeds thereof shall be held as a fund, to be alone invested in said Bonds ; which investment shall take place as early as practicable ; but the mortgage lieu shall not be divested until the same is invested in Bonds to the amount aforesaid, and the same placed in the hands of the proper officer, to be cancelled.

Property sold to bring the am't for wh. it is mortg'd.

Sec. 8. *Be it further enacted*, That if sale be made in specie or par funds, the same shall be paid to the President of said Bank, who shall immediately, or as soon as practicable, invest the same in Territorial Bonds, at the lowest price for which the same can be obtained ; which Territorial Bonds, when obtained, shall be deposited with the Governor, as aforesaid.

Purchase of Ter'l Bonds.

Sec. 9. *Be it further enacted*, That if said Bank shall convert the funds received from the sale of said property, to any other purpose than the purchase of said Bonds, each of the officers of said Bank so offending, shall be liable to indictment ; and on conviction thereof, shall be fined in a sum not less than the amount so misapplied, nor more than double said amount ; and shall, also, be imprisoned not less than one year, nor more than five years, at the discretion of the jury ; and such fines shall be invested by such Bank in said Bonds, as aforesaid ; and such person shall be ineligible to office in said Bank.

Misapplic'n of funds

Sec. 10. *Be it further enacted*, That it shall be the duty of the officer advertising such property for sale, to state specifically, in such advertisement, that the sale will be made for Territorial Bonds, or specie funds, only ; and to advertise the same for the space of sixty days, previous to the sale thereof.

Sales.

Sec. 11. *Be it further enacted*, That all sales of mortgaged property, under the provisions of this law, shall be made on, and from, and between, the first Monday in December and the first Monday in April, in each and every year ; and in all cases when property is levied on, between the first Monday in April and the first Monday in December, or remains unsold in the hands of the officer after the first Monday in April, the defendant in execution shall have the right to replevy the same, by giving bond, with good securities, for the forthcoming of the property on a day of sale to be named by the proper officers, which day of sale shall not be before the first Monday in December next ensuing, the date of the bond : *Provided*, That if such property is not replevied, the same may be sold with the consent of the plaintiff in execution, on any other regular sale day.

Sale days.

Proviso.

Sec. 12. *Be it further enacted*, That it shall be the duty of said Bank, forthwith, to deliver over to the Governor of the Territory,

Bonds to be destroyed. or such other person as may be appointed by law, all such bonds as may be taken up by the means aforesaid, or by any other means whatever, and a receipt thereupon shall be given therefor ; and the same shall be forthwith cancelled, and destroyed in the presence of witnesses, in such manner as has been, or may hereafter be, provided by law.

Violation of the 1st sect. of this act and penalty. Sec. 13. *Be it further enacted*, That in the event of the violation of the provisions of the first section of this act, by issues, loans or discounts, other than stock loans, in violation of the true intent and meaning thereof, the security, of whatever kind, taken therefor, shall be absolutely null and void, as against the party, or parties, thereto ; and the Directors and other officers of the Bank, actually engaged in making such loan or discount, shall be personally responsible, jointly and severally, for the amount thereof, and shall thereafter be ineligible to office in said Bank.

Bonds null. Sec. 14. *Be it further enacted*, That whenever the said Bank shall, by any means, come into possession of any Territorial Bond, said Bond shall not be liable to be re-sold or re-issued, but shall be held to be entirely null and void.

When to take effect. Sec. 15. *Be it further enacted*, That this act shall take effect from and after its acceptance by a majority of the stockholders of said Bank ; which acceptance shall take place, and be made known by the President of said Bank, to the Governor of the Territory, within ninety days from the approval of this bill ; and shall, thereupon, be made public by proclamation.

Sec. 16. *Be it further enacted*, That all laws, and parts of laws, so far as is inconsistent with the true intent and meaning of this act, be, and the same are hereby, repealed.

Approved 16th March, 1843.

No. LXIX.

An act entitled an act to prevent Masters of Ships or Vessels, and other persons, from throwing ballast in the Bay of Apalachicola.

Penalty. SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That if any master of any ship or vessel, seaman or other person, shall throw overboard from any ship or vessel, any stone, sand or other ballast, whereby the navigation of the bay of Apalachicola Bay shall be obstructed, he, she or they shall be deemed guilty of a misdemeanor, and liable to indictment and trial before any Court of competent jurisdiction, and upon conviction, shall be fined in a sum of not less than five hundred or more than one thousand dollars, and imprisoned for a term not less than six months or more than one year, at the discretion of the Court.

Sec. 2. *Be it further enacted*, That if any person, or persons, shall be charged with the offence mentioned in the first section of this act, it shall and may be lawful for any Judge of the Superior

or County Court, or any Justice of the Peace, to issue his warrant, Issue War'nt directed to any Marshal, Sheriff or Constable, to apprehend the person or persons so charged, and cause them to be brought before him to be dealt with as this act directs.

Sec. 3. *Be it further enacted*, That it shall and may be lawful for the aforesaid Judge of the Superior or County Courts, or the Justice of the Peace, to take bond or recognizance for the appearance, at the next Superior Court, of the person or persons so charged: *Provided*, That the said party so charged shall be deemed guilty by the said Judges of the Superior or County Courts, or the Justice of the Peace issuing said warrant. Take bond.

Sec. 4. *Be it further enacted*, That it shall be the duty of the Judge of the Superior Court of the Apalachicola District, to charge the grand jury of the county of Franklin to present all and every person who may violate the provisions of this act, that may come within their knowledge; and on every presentment, it shall be the duty of the District Attorney to prosecute the party presented upon indictment in every such case, when the said District Attorney shall prosecute the said indictment to effect, there shall be taxed in his favor, in the bill of costs against the defendant or defendants, a fee of fifty dollars. Duty of District Att'y.

Approved 14th March, 1843.

No. LXX.

An act to provide for the compensation of the officers of the Legislative Council for the session of 1843, and for other purposes.

SECTION 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida*, That the following sums be, and are hereby, appropriated out of the amount allowed by the United States for the expenses of the Legislative Council and expenses of the year 1843:

To Thomas T. Long, Secretary of the Senate, for seventy-five days in session, and twelve days to arrange the business of the session. To Francis Webb, Assistant Secretary of the Senate for seventy-five days. To George W. Parker, Foreman, for seventy-five days. To George O. McMullin, Messenger of the Senate, for seventy-five days. To Alfred A. Fisher, Sergeant-at-arms, or door-keeper of the Senate, for seventy-five days. To Hugh Archer, Secretary of the House of Representatives, for seventy-five days in session and twelve days to arrange the business of the session. To Daniel B. Fisher, Assistant Secretary of the House of Representatives, for seventy-five days. To Samuel J. Perry, Foreman of the House of Representatives, for seventy-five days. To Thomas B. Fitzpatrick, Messenger of the House of Representatives, for seventy-five days. To William C. Bryan, Sergeant-at-arms, or door-keeper of the House of Representatives, for seventy-five days. To Samuel S. Sibley, Printer of the Senate, for miscellaneous printing, bills, reports, slips of daily journals in pamphlet form, and for all other Officers of the Council.

For printing. work done for the Senate, and newspapers furnished the House and Senate under their order, for such quantity of printing as may be certified to by the Secretary of the Senate and countersigned by the Secretary of the Territory. To Joshua Knowles, Printer of the House of Representatives, for miscellaneous printing for the House, bills, reports, slips of daily journals and journals in pamphlet form, and all other printing done for the House of Representatives, and for newspapers furnished the Senate and House under their order, for such quantity of printing as may be certified to by the Secretary of the House and countersigned by the Secretary of the Territory. To Cosam E. Bartlett, Editor of the Star, for newspapers furnished the Senate and House under their order, and for miscellaneous printing for such quantity as shall be certified to by the Secretaries of the two Houses respectively, and countersigned by the Secretary of the Territory. To Philip A Hayward, for stationery furnished the Senate and House of Representatives. To William Wilson, for stationery furnished the Senate and House of Representatives. To Alfred A. Fisher, for wood furnished the Senate and House of Representatives and contingent expenses, one hundred and thirty-six dollars and fifty cents. To John W. Levinus, for furnishing and repairing Senate Chamber, eighty dollars; and for the Representative Hall, seventy-eight dollars. To George O. McMullin, for extra services as Clerk to the Senate as per resolution of the Senate, fifty-four dollars; and for enrolling, seven dollars and fifty cents. To Edward P. Roberts, for services in enrolling Marvin's Digest, passed by the Senate and House of Representatives, forty-six dollars. To William S. Perry, for services in enrolling Marvin's Revised Statutes, passed by the Senate and House of Representatives, seventy-eight dollars and seventy-five cents. To James T. Archer, for services in enrolling Marvin's Revised Statutes, passed by the Senate and House of Representatives, thirty-two dollars and fifty cents. To William C. Bryan, for servant's hire and contingent expenses for the House of Representatives, twenty-six dollars and twenty-five cents. To Kerr and Kirksey, for contingent expenses for the House of Representatives, seven dollars. To Frederick Towle, for contingent expenses for the House of Representatives, twenty dollars and sixty-three cents. To William C. Bryan, for extra services, engrossing bills and copying orders, resolutions, &c. for the House of Representatives, twenty-five dollars. To John Broward, for servant hire for the House of Representatives, thirty dollars.

Sec. 2. *Be it further enacted*, That the President of the Senate and the Speaker of the House of Representatives, be allowed double per diem.

Sec. 3. *Be it further enacted*, That the sum of three hundred dollars be, and is hereby, appropriated for the purpose of distributing the laws of the Territory of Florida under the direction of the Governor.

Sec. 4. *Be it further enacted*, That the Governor be authorized to certify the expenses of printing the laws and resolutions of this

session. To Moses Ellis, who performed services for the House of Representatives at the present session from the fourth to the ninth day of January inclusive, the per diem allowed by law, say five days at three dollars per day.

Approved 16th March, 1843.

RESOLUTIONS.

No. I.

WHEREAS, a verdict was rendered in the District Court of the United States, held at Tallahassee, at their April term, 1840, in a suit lately pending therein, instituted by said United States against William P. Duval, in favor of said Duval, for the sum of eighteen thousand and fifty-eight dollars, being found due to him by the jury for services rendered as superintendent of Indian affairs in Florida, from 1822 to 1834, and for advances of money made by him during the twelve years of his superintendence, and for expenses incurred in supplying the Indians with provisions :

Resolutions.
1843.

AND WHEREAS, this Legislative Council in common with the people of Florida, appreciating the services so rendered by the said Duval, as one of the first Governors of the Territory, and in recollection of the sacrifices made and losses sustained by him, feel an anxious desire that justice should be done him in the premises, and that his claim shall be no longer delayed :

Be it therefore resolved by the Governor and Legislative Council, That the early attention of the Congress of the United States be earnestly invoked to this subject, and that our Delegate be requested to use his exertions to procure from Congress the speedy adjustment and settlement of said claim.

Resolved, also, That a copy of this resolution be furnished our Delegate, to be laid before Congress.

Approved 9th February, 1843.

No. II.

PREAMBLE AND RESOLUTION.

WHEREAS, cases of salvage, and other commercial cases involving small amounts in contest, frequently occur in the seaport towns of this Territory, requiring the decisions of the Court of Admiralty, which are frequently attended with injurious delay, expense and inconvenience, to the great embarrassment of right and justice :

Resolutions.

1843.

Be it therefore resolved by the Governor and Legislative Council of the Territory of Florida, That our Delegate in Congress be, and he is hereby, instructed to use his endeavors to obtain the passage of a law, establishing suitable commercial tribunals to adjudicate such cases, or conferring power in this Legislature to constitute the same.

Approved 17th February, 1843.

No. III.

PREAMBLE AND RESOLUTIONS—STATE GOVERNMENT.

WHEREAS, great pecuniary distress and embarrassment prevail in this Territory, tending to paralyze industry, retard improvement and destroy confidence: And whereas, State Government if assumed, would necessarily impose additional burthen and taxes on a people already laboring under accumulated difficulties: And whereas, four years have elapsed since the formation of the Constitution, prepared at St. Josephs for the people of Florida, in which period important changes have taken place in the population of this Territory: And whereas, the country heretofore in the possession of the Seminole Indians, is now fast filling up, by a full tide of emigrants, which population should have a due influence in the formation of a Constitution, for the permanent Government of the State of Florida.

Be it therefore resolved, by the Governor and Legislative Council of Florida, That it is unwise, impolitic, and improper to enter into a State Government at this time.

Be it further resolved, That the objection to going into a State Government under the St. Joseph's Constitution is greatly strengthened by the well known fact, that said Constitution was adopted by a meager majority of the voters of Florida, and has at all times been highly exceptionable to a large portion of the people of Florida, whose opposition to State Government has in part originated in opposition to that instrument.

Be it further resolved, That our Delegate in Congress, be, and he is hereby requested to oppose the admission of Florida into the Union, as an independent State, until the people in convention shall have formed a new Constitution, or until they have expressed by a vote at the polls, their willingness to adopt the St. Joseph's Constitution.

Approved 17th February, 1843.

No. IV.

Resolved by the Governor and Legislative Council of the Territory of Florida, That the Delegate in Congress be instructed to use his best exertions with the Government of the United States, with a view of establishing permanently a boundary line between the Territory of Florida and the State of Georgia.

Approved 21st February, 1843.

No. V.

WHEREAS, the navigation of the Suwannee River is a consideration of great importance, from the great bodies of fertile land bordering on said river and the adjacent country, the shipment of produce from which section of country must naturally pass through said channel :

Resolutions.
1843.

Be it therefore resolved by the Governor and Legislative Council of the Territory of Florida, That the Delegate in Congress be requested to endeavor to procure the re-appropriation of fifteen thousand dollars for the purpose of removing the obstructions to the navigation of the Suwannee river.

Be it further resolved, That a copy of the foregoing preamble and resolutions be certified by the proper officers and forwarded to the Hon. David Levy.

Approved 22d February, 1843.

No. VI.

WHEREAS, the county of Mosquito has recently greatly increased in population, so much so as to render it indispensably necessary that a communication by mail should be opened between St. Augustine, in St. Johns county, and the town of Enterprise, on Lake Monroe, the county-site of said Mosquito county.

Be it resolved, That our Delegate in Congress be requested to use his best exertions for the establishment of a Post-Office at the said county-site of Mosquito county.

Be it further resolved, That a copy of this preamble and resolutions be transmitted to the Post Master General, and to our Delegate in Congress.

Approved 22d February, 1843.

No. VII.

WHEREAS, the importance of connecting the waters of the Atlantic with the Gulf of Mexico is acknowledged by the intelligent community of every portion of the United States, whether viewed as essential to the defence of the South, in affording facilities to our military operations in time of war, or regarding the safety of the commerce of the Union around the peninsula of Florida, which is now subject to an annual loss of five hundred thousand dollars per annum, or regarding the safety and facility of the transportation of the mail from Charleston to New-Orleans, by which, at much less expense and with greater speed, it can be transported :

Be it therefore resolved by the Governor and Legislative Council of the Territory of Florida, That Congress be respectfully requested to take early action to open a communication either by canal or railroad from some point on the St. Johns river, in East Florida, to some point on the Suwannee river or the Gulf of Mexico.

Resolutions.

1843.

Be it further resolved, That a copy of the foregoing preamble and resolutions be transmitted to the President of the United States, the Secretary of War, and the Post Master General; and that a copy be also transmitted to the President of the Senate, the Speaker of the House of Representatives, and to our Delegate in Congress, who is requested to urge on Congress the importance of the proposed communication.

Approved 22d February, 1843.

No. VIII.

WHEREAS, in an act entitled "An act for the completion of certain improvements in the Territory of Florida," approved the 24th of February, 1835, the Congress of the United States did appropriate the sum of ten thousand dollars for clearing out the Ocklawaha river from the St. Johns to Glassall's Springs, near Camp King, for purposes therein set forth, which, owing to the continuance of the Seminole War, has not been applied to the purposes for which it was intended, and which sum has subsequently reverted to the Treasury of the United States: AND WHEREAS, the influx of population into that section of country through which said river Ocklawaha runs, renders its navigation desirable for many considerations:

Therefore, be it resolved, That our Delegate in Congress be requested to use his best exertions to effect a re-appropriation of the said sum of ten thousand dollars, to be applied as was originally intended.

Approved 22d February, 1843.

No. IX.

WHEREAS, Columbia county has, since the assignment of representation by act of Congress to the various counties in this Territory, greatly increased and is still increasing in population: AND WHEREAS, the present population of said county is sufficiently large to entitle it to two members in the House of Representatives of the Legislative Council: Therefore,

Be it resolved by the Governor and Legislative Council of the Territory of Florida, That the Delegate in Congress be requested to use his best efforts to procure the passage of an act of Congress, allowing said county an additional member to the House of Representatives.

Approved 23d February, 1843.

No. X.

WHEREAS, there is good reason to believe that many papers of interest to the citizens of this Territory, appertaining to the office of Quarter Master General, (which office is now vacant), are at this time under the charge of no officer of this Government, but liable to be lost or misplaced :

Resolutions.

1843.

Therefore be it resolved by the Governor and Legislative Council of the Territory of Florida, That the Auditor of Public Accounts, or some other officer under the direction of His Excellency the Governor, take charge of as many of said papers as may come to his knowledge, and retain the same in his keeping till the said office of Quarter Master General shall be filled.

Approved February 24th, 1843.

No. XI.

Preamble and Resolutions asking from Congress an appropriation to repair the road from Jacksonville to Alligator.

WHEREAS, the direct road leading from Jacksonville to Alligator, a distance of about seventy miles, and on which the mail must eventually pass, it being the only direct line, and it will be perceived that the way the mail now goes, it is about one hundred miles from the former to the latter place, is now very bad, and at times, almost impassable :

Therefore be it resolved by the Governor and Legislative Council of the Territory of Florida, That our Delegate in Congress be requested to use his best exertions to obtain an appropriation of ten thousand dollars for the repairs of the aforesaid road.

Be it further resolved, That as soon as this preamble and resolutions be passed and signed by the proper officers, a certified copy of the same be forthwith forwarded to our Delegate in Congress.

Approved 24th February, 1843.

No. XII.

The Committee on public accounts, to whom was referred that portion of the Governor's Message, in relation to claims upon the General Government; ask leave to submit the following report and resolutions :

The Committee fully acquiesce in the views of his Excellency in relation to the injury which our citizens have sustained, by the delay on the part of the Government, to satisfy their just claim upon it for services rendered and supplies furnished to troops of the United States, in the prosecution of a protracted war, with the Indians in Florida.

Resolutions.

1843.

This delay was first attempted to be justified, on the ground that the Government was not in possession of that kind of evidence which was calculated to establish beyond a reasonable doubt, the justice of those claims, which had been rendered against it, and it was confidently stated that, so soon as those doubts could be removed by submitting the accounts of claimants to the investigation of a tribunal, constituted for that purpose, they would receive full and prompt satisfaction. They were accordingly so submitted, and passed the ordeal of a tedious and elaborate examination, in many cases subjecting claimants to no inconsiderable embarrassment, by requiring of them the most rigid testimony, and frequently confining them to the nicest technicalities in the establishment of their accounts.

It was natural therefore, to expect that after all this ceremony of means had been put in requisition to arrive at the truth, that when that result had been accomplished, the portion of the claim which was decided to be just, would have been paid cheerfully, and without delay; more especially after an appropriation had been made for that specific object. But thus far these reasonable expectations have not been realized, and the soldier who repaired from his domestic avocations at his country's call, to repel the invasions of her enemy, and the citizen who parted with the earnings of his industry, to save him from the pangs of hunger, presuming upon the prompt justice of his government for compensation, have alike been taught the mournful truth, that the best human expectations are doomed to disappointment.

The Committee are aware that our National Government, no less than individual citizens, have experienced financial embarrassments, without perhaps a parallel in its history, but still amid all these, appropriations have been made and expended for numerous objects, which merited no higher claim to its attention than the payment of the accounts in question; for if precedence be given to any class of subjects, in the disbursement of its revenue, they are of opinion it is due to the defenders of their country, and to those who furnish them with the means of subsistence.

They therefore recommend the adoption of the following resolutions.

Resolved, That our Delegate in Congress be requested to call the early attention of Government to the settlement of these claims, and to insist upon their payment with the least possible delay.

Resolved, That our Delegate be furnished with a copy of this report and resolutions.

Approved 24th February, 1843.

No. XIII.

WHEREAS, at the 2d session of the 27th Congress, an act was passed which provides that no session of the Legislature of a Territory shall be held until an appropriation for its expenses shall have been made by Congress: And whereas, said act makes the

very existence of this Legislative Council dependent on a contingency, by the provisions aforesaid, thus greatly endangering the rights and interests of the people of Florida: And whereas the said act limits the compensation of the officers to a sum inadequate to the amount of services rendered:

Resolutions.

1843.

Be it therefore resolved by the Governor and Legislative Council of the Territory of Florida, That our Delegate in Congress be respectfully but earnestly requested to use his best efforts to have the said act so amended or modified as to give to the Legislature of Florida the right of holding its sessions without waiting the passage of an appropriation bill, by Congress, and also to increase the compensation of its officers.

Approved 1st March, 1843.

No. XIV.

WHEREAS, the limited number of post offices in the county of Alachua (which is rapidly increasing in population) is productive of much inconvenience to the inhabitants of said county:

Be it resolved, That our Delegate in Congress be requested to use his best exertions for the establishment of a post office at Fort King in said county of Alachua.

Be it further resolved, That a copy of the foregoing preamble and resolutions be transmitted by the Secretary of this House to our Delegate in Congress:

Approved 1st March, 1843.

No. XV.

WHEREAS, an appropriation was made by Congress, in the year 1838, of ten thousand dollars, for opening and constructing a road from Tallahassee to Iola, on the Apalachicola river, in the Territory of Florida, and the engineer appointed by the General Government to superintend the opening and construction of said road, owing to the dangers of the Indian war, declined to proceed with the said work, whereby the said appropriation of ten thousand dollars has reverted to the Treasury of the United States: And whereas, the said road, if opened, will be of much advantage to the United States and the people of Florida, and would materially facilitate the speedy transportation of the mail, at a diminished cost, to and from this Territory to the Southwest: Therefore,

Be it resolved by the Governor and Legislative Council of the Territory of Florida, That Congress be respectfully solicited to re-appropriate the said sum of ten thousand dollars for the said road.

Be it further resolved, That the Hon. David Levy, Delegate in Congress, be requested to lay this preamble and resolutions before

Resolutions. Congress, and that a certified copy be transmitted to him without delay, and the Clerk is hereby directed to forward the same.
 1843 Approved 1st March, 1843.

No. XVI.

WHEREAS, the citizens of Blount's Town, and those living in its vicinity on the Apalachicola river, in the county of Calhoun, labour under great inconvenience as to mail facilities, it being twenty-five miles to any Post-Office :

Be it therefore resolved by the Governor and Legislative Council of the Territory of Florida, That our Delegate in Congress, the Hon. David Levy, be requested to use his best exertions to have a Post-Office established in Blount's Town ; and to have Shadrack Sutton, Esq. appointed Post-Master at said place.

Resolved further, That a copy of the foregoing preamble and resolutions, be duly authenticated and forwarded to our Delegate in Congress.

Approved 1st March, 1843.

No. XVII.

Preamble and resolution relative to the Petition of John B. Taylor.

WHEREAS, it appears by the affidavit of John B. Taylor, that a draft on the Treasury of Florida, for three hundred and nine dollars and fifty cents, in favor of Jonathan Thomas, given by John Miller, Auditor of Public Accounts, has been lost by the said John B. Taylor, and that he has given public notice of the same, and of his intention to apply for its renewal :

Be it therefore resolved by the Governor and Legislative Council of the Territory of Florida, That the Auditor of Public Accounts for the Territory of Florida, be, and he is hereby authorized and directed to issue a Duplicate Draft in lieu of the original, which shall be of the same force and effect as the original.

Approved 11th March, 1843.

No. XVIII.

WHEREAS, the city of Apalachicola, from her commercial advantages, is enabled to rank among the first commercial cities on the Gulf of Mexico : And whereas, the Congress of the United States have made appropriations and erected marine hospitals, for the support of sick and disabled American seamen, in all the principal seaports of the United States : And whereas, the Congress of the United States hath not before been solicited to erect a Marine Hos-

pital at Apalachicola, in the Territory of Florida: And whereas, **Resolutions.**
the shipping has increased within the last year to a great extent;
and the great number of sick and disabled seamen having increased
in proportion to the shipping, justly entitles her to ask of Congress
an appropriation of ten thousand dollars for the erection of a Marine
Hospital, to be located upon some eligible position on the Bay of
Apalachicola.

1843.

Be it therefore resolved by the Governor and Legislative Council of the Territory of Florida, That our Delegate in Congress be requested to use his exertions to procure the aforesaid appropriation for the purposes aforesaid.

Be it further resolved, That a copy of this preamble and resolutions be forwarded to the Hon. David Levy, our Delegate in Congress.

Approved 14th March, 1843.

No. XIX.

WHEREAS, the establishment of a mail route from the city of Apalachicola to Marianna, would afford many facilities to the citizens residing at St. Andrews, and on the Econfena river: And whereas, no mail passes nearer these places than Holmes' Valley, a distance of more than twenty-five miles, to these people a matter of great inconvenience:

Be it therefore resolved by the Governor and Legislative Council of the Territory of Florida, That our Delegate be, and he is hereby, requested to use his best exertions to procure the establishment of a mail route from Apalachicola, *via* St. Joseph, St. Andrews and Econfena, to intersect with the Alligator route at Marianna.

Be it further resolved, That the above resolution shall not, in any way, change the present mail route to the city of Apalachicola by steamboat.

Be it further resolved, That a copy of these resolutions be forwarded to the Hon. D. Levy, Delegate in Congress; also, to the Post-Master General.

Approved 14th March, 1843.

No. XX.

WHEREAS, the Legislative Council of this Territory has, at the present session, passed an act organizing a county in East Florida, to be called Hernando county: And whereas, there are several navigable streams in said County:

Be it resolved by the Governor and Legislative Council of the Territory of Florida, That no person whatsoever shall, under any circumstances, build or construct any bridge, or any other impediment, across any such streams, which may tend to obstruct the navigation thereof.

Approved 15th March, 1843.

Resolutions.

No. XXI.

Preamble and Resolutions relative to Preemption Claimants.

1843.

WHEREAS, many of the citizens of this Territory, settled at an early period on Lands which were then supposed to be the property of the United States, since held by claimants under Spanish Grants : And whereas, they have been debarred the rights of preemption, a privilege extended to the early settlers of this Territory : And whereas, in justice they should be entitled to all the privileges, which have been extended to others settling on public lands.

Be it therefore resolved by the Governor and Legislative Council of the Territory of Florida, That our Delegate in Congress be requested to use his best exertions to procure the passage of a law by Congress, allowing all persons who may have settled on lands since, determined to belong to claimants under grants, or who may hereafter settle on any lands which may be decided to be the property of claimants under grants, to locate the quantity of land to which they would have been entitled under preemption, on any public lands (not reserved) in this Territory, subject to entry as other lands held by preemption.

Be it further resolved, That a copy of these resolutions be forwarded to the Hon. David Levy our Delegate in Congress.

Approved 15th March, 1843.

No. XXII.

Resolutions relative to the Union Bank of Florida.

Resolved by the Governor and Legislative Council of the Territory of Florida, That in their opinion, the two resolutions adopted by the Stockholders of the Union Bank of Florida, at their late annual meeting, which resolutions have for their object, to permit under certain conditions, stockholders to cancel any number of shares in the capital stock of said Bank, and giving a corresponding release of the Mortgage upon their property and stock notes, are in their spirit and tenor, a violation of the charter of the original act of Incorporation of said Bank.

Resolved further, That should the stockholders of said Bank refuse to revoke or repeal the said two resolutions, and the Directors of said Bank proceed to act under the same, thereby releasing any of the securities of said Bank ; then the Governor of this Territory, is hereby authorized and required to cause to be instituted proceedings against said Bank, by injunction or otherwise, and to procure a decree of forfeiture of the Charter thereof, and also to obtain a decree for the sequestration of the effects of said Bank, and the appointment of commissioners to take charge of the same for the benefit of all concerned, and cause the affairs of said Bank to be wound up with as little delay as practicable.

Approved 15th March, 1843.

No. XXIII.

Preamble and Resolutions relative to the compensation of the officers of the
Two Houses

Resolutions.

1843.

WHEREAS, by an act of Congress approved August 29th, 1842, the number of clerks and officers of the Legislative Council has been reduced, and their pay fixed at three dollars per diem each : And whereas, by said reduction the duties and labors of said officers are increased, thereby rendering it almost impossible to obtain suitable and competent persons to fill some of the most important offices of a Legislative body, at the rate now fixed :

Therefore, be it resolved by the Governor and Legislative Council of the Territory of Florida, That the pay of the chief clerk of the House, and the Secretary of the Senate is too small to induce competent persons to take upon themselves the responsibility and labor of the office, and that the same ought to be increased to six dollars per diem, and in the opinion of this Legislature, they should be paid that sum for their labors at the present session.

Resolved further, That the pay of the other clerks and officers of the Legislative Council, be increased to four dollars per diem, and in the opinion of this Legislative Council, they should receive that sum for their services to the present Council.

Resolved further, That certified copies of the above resolutions be sent to our Delegate in Congress, and the Secretary of the Treasury.

Approved 15th March, 1843.

No. XXIV.

WHEREAS, it hath been represented to this Legislative Council that all the lands lying and being within the county of Franklin are covered by a Spanish grant known as Forbes & Co.'s grant : And whereas, the act of Congress giving to the Territory every sixteenth section in every township and range, for school purposes, does not nor cannot apply to that county, for the reasons aforesaid : And whereas the said county is rapidly settling, and a school fund for the education of poor children would tend to increase her emigration still further, and would tend to the promotion of learning in said county :

Be it therefore resolved by the Governor and Legislative Council of the Territory of Florida, That our Delegate in Congress be requested to use his best exertions to have a law passed by the Congress of the United States, authorizing the Governor of this Territory to appoint some discreet person to locate six sections of any unreserved public lands in said Territory, for school purposes, as aforesaid.

Resolutions. *Be it further resolved, That a copy of this preamble and resolution be forwarded to our Delegate in Congress.*
 1843. Approved 15th March, 1843.

No. XXV.

Resolved by the Governor and Legislative Council, That the laws of the Territory of Florida, which are usually published in three papers in the Territory, be hereafter published in four, and that a paper in the city of Apalachicola have the publishing of the same, from and after the present session of the Council.

Approved 15th March, 1843.

No. XXVI.

Resolutions relative to the claims of citizens of Florida upon the United States.

Resolved by the Governor and Legislative Council of the Territory of Florida, That our Delegate in Congress be requested to urge upon the Secretary of War and the Congress of the United States, the necessity, expediency and justice of authorizing some officer or officers, capable of performing the duty, to proceed immediately to the investigation of the claims of the citizens of Florida, for military services rendered, transportation, subsistence and forage furnished in prosecuting the Florida war, and to report the actual situation of said claims.

Resolved further, That for the better guidance of the Territorial Legislature in their future action upon the subject, and for the interest of all concerned, the Secretary of War be requested to authorize Col. S. Churchill (who, possessing alike the confidence of the Government and of the people of Florida, and, from his situation as inspector General for many years in Florida is, perhaps, better qualified than any other person,) to proceed, as soon as his other duties will allow, to investigate and report upon all the military claims of the citizens of Florida.

Resolved further, That certified copies of this report and resolutions be sent to our Delegate in Congress, the Secretary of War, and the President of the United States.

Approved 15th March, 1843.

No. XXVII.

Resolution relative to imposing certain duties upon the Secretary of the Territory.

Resolved by the Governor and Legislative Council of Florida, That the Secretary of the Territory be, and he is hereby, required, and it is made his duty, to take charge of the census returns refer-

ed to in the Message of His Excellency the Governor, and deposit them and the books received by the Executive from the United States, and from the States of the Union, in appropriate places, in a room to be assigned by the Governor for that purpose ; that he have all the books, pamphlets, &c., bound that require it ; that said Secretary reclaim and receive such books belonging to the Territory, as have been loaned or taken from the office ; and that no loan of any of said books be hereafter made without consent of the Governor, and a receipt in a book to be kept for the purpose ; and for the expenses incurred hereby, the Governor is authorized, on being satisfied of the correctness of the charge, to make a requisition on the Treasury therefor.

Resolutions.

1843.

Approved 15th March, 1843.

No. XXVIII.

Resolved, That a select committee of three be appointed by this House, to act with a similar one from the Senate, to examine and report upon such accounts as may be presented to this Legislature for approval.

Approved 15th March, 1843.

No. XXIX.

WHEREAS, it hath been made known to this Legislative Council, by petition of the Chamber of Commerce of the city of Apalachicola, that they have petitioned Congress for an appropriation to deepen the Straight Channel in the Bay of Apalachicola, whereby vessels of greater burthen can be brought to the wharf of said city : And whereas, the growing and commercial importance of the said city of Apalachicola, enables her to ask with great justice for the efficient aid of the General Government, in order to develope more surely and speedily her great resources and commercial advantages : And whereas, the exports and imports from and to the said Bay of Apalachicola, are continually and surely increasing : And whereas, her commerce is greatly embarrassed in consequence of the filling up of the channel aforesaid ; and it is believed that a comparatively small appropriation would effectually remove the cause of embarrassment :

Be it therefore resolved, That the Legislative Council most respectfully memorialize Congress that the prayer of the said petitioners, to wit, the petition of the Chamber of Commerce of the city of Apalachicola, may be granted ; and that the sum of twenty-five thousand dollars be appropriated by Congress, from the Treasury of the United States, for the deepening and widening of the Straight Channel in the Bay of Apalachicola, to be expended under such appointment and superintendence as Congress may direct ; and that

Resolutions. a copy of this preamble and resolution be forwarded to the Secretary of the Treasury, and to our Delegate in Congress, respectfully requesting him to lay the same before Congress, and to use his influence and exertion to have said appropriation made.

1843.

Approved 15th March, 1843.

No. XXX.

Be it resolved by the Governor and Legislative Council of the Territory of Florida, That in case of Congress not appropriating a suitable sum for the completion of the Capitol, the Commissioner of the city of Tallahassee shall, with the approbation of the Governor, proceed immediately to have a suitable roof placed on the part of the building not already covered in, to be permanent or not as may be deemed most advisable; and that the said Commissioner use the means of the fund if they can be made available to that purpose, or contract on the faith of means to be hereafter provided, or borrow money if the same can be had, as may be deemed most advisable.

Approved 15th March, 1843.

No. XXXI.

Resolved by the Governor and Legislative Council of the Territory of Florida, That our Delegate in Congress be, and is hereby, requested to procure the passage of a law by Congress for the re-location of valueless sixteenth sections, or school lands, on any public lands in this Territory not reserved.

Resolved further, That a copy of these resolutions be forwarded to the Hon. David Levy, and he be requested to lay the matter before Congress.

Approved 15th March, 1843.

No. XXXII.

WHEREAS, it has been the policy of the Government of the United States to induce emigration, whereby many persons having come into Florida since its cession from Spain, and therein expended their time, means and labor for many years, in preparing homes and making subsistence for themselves and children: And whereas, emigrants and settlers had looked with confidence to the Government of the United States for protection and safety against the wandering bands of Indians, which protection was its duty and within its power to give: And whereas, the war which commenced and has for a long time continued, under the frequent assurances from Government of peace, to the great loss of life, and to the

destruction of the renewed hopes of the inhabitants, and in many instances to the entire destruction of their property and means of livelihood : And whereas, the people of the Territory of Florida had neither the ability nor the right to raise money, for the outfit and maintainance of troops for carrying on the same : But these were the duties and prerogative of the General Government only, of which it has assiduously maintained the direction and control thereof :

Resolutions.

1843:

Be it unanimously resolved by the Governor and Legislative Council of the Territory of Florida, That the depredations upon property made by the Seminole Indians, is a loss to the settlers of Florida, for which the Government of the United States is bound in justice to make a fair and early reparation.

Resolved further, That the Hon. the Delegate in Congress, from the Territory of Florida, is requested to make an earnest appeal to the Government of the United States for the payment of losses of property suffered from Indian depredations, and that a copy of this preamble and these resolutions be communicated to him by the Secretary of the House of Representatives of the Legislative Council.

Approved 15th March, 1843.

No. XXXIII.

Resolved by the Governor and Legislative Council of the Territory of Florida, That the Secretary of Florida be requested to have printed as soon as practicable, and at the least expense, one hundred copies of the laws named in the annexed list, and furnish each member of both houses of the Legislative Council with one copy, in a proper form to be attached to the pamphlet containing the laws of Congress relative to Florida, passed prior to the year 1838.

LIST OF LAWS.—Passed in the year 1838.

An act making appropriations for certain roads in the Territory of Florida. Chap. 164, p. 106.

An act to establish a new judicial district in the Territory of Florida. Chap. 181, p. 156.

Passed in the year 1839.

An act making appropriations for preventing and suppressing Indian hostilities.

An act to provide for the erecting of public buildings in the Territory of Florida. Chap. 70, p. 39.

An act for the relief of certain officers of the Florida Militia.—Chap. 100, p. 89.

Resolutions.

Passed in the year 1842.

1843

Extract from an act making appropriations for the civil and diplomatic expenses of Government, for the year 1842. Chap. 29, No. 173, p. 28.

Also, an act to provide for the armed occupation and settlement of the unsettled part of East Florida. Chap. 122, p. 81.

An act for the payment of Florida Militia. Chap. 280, p. 220.

A proclamation by the President of the United States.

Original treaty of amity, settlement and limits between the United States of America and his Catholic Majesty. Laws of Florida, p. 111.

An act respecting fugitives from justice and persons escaping from the service of their masters. Story's Laws of the United States, Vol. I. p. 284.

An act to prescribe the mode in which the public acts, records and judicial proceedings in each State, shall be authenticated, so as to take effect in every other State. Ibid pp. 93 and 947.

An act to establish the Judicial Courts of the United States. Ibid pp. 53 and 300

An act to authorize the President of the United States to take possession of East and West Florida, and to establish a temporary Government therein. Ibid, Vol. III. p. 1745.

An act for carrying into execution the treaty between the United States and Spain, concluded at Washington, on the 22d February, 1819. Ibid, p. 1817.

An act to provide for the collection of duties on imports and tonage in Florida, and for other purposes. Ibid, p. 1850.

An act for ascertaining claims and titles to land within the Territory of Florida. Ibid, p. 1869.

An act amending and supplementary to the act for ascertaining claims and titles to land in the Territory of Florida, and to provide for survey and disposal of the public lands in Florida. Ibid, p. 1907.

An act to extend the time limited for the settlement of private land claims in the Territory of Florida. Ibid, p. 1935.

An act to extend the time for the settlement of private land claims in the Territory of Florida, to provide for the preservation of the public archives in said Territory, and for the relief of John Johnson. Ibid, p. 2008.

An act giving the right of pre-emption in the purchase of land to certain settlers in the States of Alabama, Mississippi, and the Territory of Florida. Ibid, p. 2017.

An act to provide for the confirmation and settlement of private land claims in East Florida, and for other purposes. Ibid, p. 2403.

An act to confirm the report of Commissioners for ascertaining claims and titles to lands in West Florida, and for other purposes. Ibid, p. 2019.

An act granting donations of land to certain actual settlers in the Territory of Florida. Ibid, p. 1935.

An act authorizing and changing the time of the session of the Legislative Council of the Territory of Florida. Ibid, Vol. VIII. pp. 41 and 302. **Resolutions.**
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An act to establish ports of delivery at Port Ponchartrain and Delaware city, and for other purposes. Ibid, p. 467.

An act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida. Ibid, p. 66.

An act to authorize the disposition of the fund arising from the sale of a quarter section of land reserved for the use of schools in Florida. Ibid, p. 708.

An act amending and supplementary to the act for ascertaining claims and titles to land in the Territory of Florida, and to provide for the survey and disposal of the public lands in Florida. Ibid, Vol. III. p. 1907.

An act to provide for the location of two townships of land reserved for a seminary of learning in the Territory of Florida, and to complete the location of the grant to the Deaf and Dumb Asylum of Kentucky. Laws of Florida, p. 99.

An act concerning wrecks on the coast of Florida. Ibid, p. 109.

An act to organize the Legislative Council of the Territory of Florida, and for other purposes. Laws of the United States, A. D. 1838, p. 156.

An extract of an act making appropriations for the civil and diplomatic expenses of Government for the year 1842. Laws of the United States, A. D. 1842, pp. 23 and 28.

An act to provide for the armed occupation and settlement of the unsettled parts of East Florida. Ibid, p. 81.

An act to provide for the settlement of certain accounts, for the support of Government in the Territory of Wisconsin, and for other purposes. Ibid, p. 167.

An act in reference to pre-emption on disputed boundaries. Ibid, A. D. 1833.

An act to appropriate the proceeds of the public lands and to grant pre-emption rights. Ibid, Sept. 4th, 1841.

Approved 15th March, 1843.

IN SENATE, Thursday, 9th March, 1843.

Mr. Yonge offered the following resolution :

Resolved by the Senate and House of Representatives, That the following rules of practice in the Courts in the Territory established by the Court of Appeals, in conformity to an act of the Council, passed in 1832, be printed with the laws of the present session.

Adopted by the Senate 10th March, 1843.

THOS. T. LONG, Secretary.

Adopted by the House 10th March, 1843.

H. ARCHER, Secretary.

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RULES OF PRACTICE
FOR THE
COURT OF APPEALS
OF THE
TERRITORY OF FLORIDA.

RULE 1. It shall be required of an applicant for admission as an Attorney and Counsellor in this Court, that he should have practiced as such, in a Superior Court of this Territory, and have sustained a fair private and professional character.

Court of Appeals—Rules of Practice.

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RULE 2. The practice of the Supreme Court of the United States, so far as the same is consistent with the Organic Law, and with the acts of the Legislative Council, shall be the out-line of the practice of this Court, to be altered from time, as circumstances may render the same necessary.

RULE 3. Previous to the argument of any cause in this Court, it will be expected that the Counsel engaged in such cause furnish the Court with the material points, in writing.

RULE 4. No Record of the Court shall be suffered by the Clerk to be taken out of his office, but by consent of Court.

RULE 5. In every cause in which the defendant shall fail to appear, the plaintiff may proceed "ex parte."

RULE 6. If the defendant shall refuse to plead to issue, and the cause shall be called for trial, the Court may proceed to hear an argument on the part of the plaintiff, and give judgment according to the rights of the cause.

RULE 7. When it shall be made to appear to this Court, that an appeal has been prayed and allowed in a Court below, and that the same has not been brought up and placed upon the docket, as the law requires, the same shall be annulled on motion, and the judgment of the Court below shall proceed to execution, as if no such appeal had been allowed.

RULE 8. Whenever, pending a suit in this Court, either party shall die, the proper representatives in the personalty or realty of the party decedent, may voluntarily come in and be made party to the suit, and thereupon, such suit shall be determined as other suits; and if such representatives shall not voluntarily become party, then the other party may suggest the death on record: whereupon, on motion in writing, he may obtain an order that, unless such re-

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representatives shall not voluntarily become party, then the other party may suggest the death on record : whereupon, on motion in writing, he may obtain an order that, unless such representatives shall become party within the first three days of the ensuing term, he shall, if defendant, be admitted to have the suit dismissed, and if the plaintiff, [a hearing being had] to have the judgment reversed, if erroneous ; provided, that a copy of every such order shall be printed in some newspaper at the seat of Government, for three successive weeks, beginning at least sixty days before the first day of the term of the Court of Appeals, then next ensuing.

RULE 9. No cause shall be heard, until a complete record shall be filed with the Clerk of this Court, containing in itself, without reference "aliunde," all the papers, exhibits, depositions and other proceedings, which are necessary to a hearing in this Court.

RULE 10. In all cases in which a writ of error or appeal shall appear to have been sued out merely for delay, damages shall be awarded under the statute, not exceeding twenty per cent. : but in cases where there exists a real controversy, the damages shall be only at the legal rate of interest.

RULE 11. All parties in this Court, not being residents of the Territory, shall give security for the costs accruing in this Court, to be entered of record.

RULE 12. If the Clerk of this Court shall produce satisfactory evidence by affidavit, or the acknowledgment of the parties, or their sureties, of his having served a copy of the bill of costs due by them respectively in this Court, on such parties or sureties, an attachment may issue against such parties or their sureties, to compel payment of such costs.

RULE 13. Only two Counsel shall be heard on either side of a cause, unless by special permission of the Court.

RULE 14. Whenever it shall be necessary or proper, in the opinion of any Judge of a Superior Court, that original papers of any kind should be inspected by this Court on appeal, such Judge may make such rule or order, for the safe-keeping, transporting, or return of such original papers, as to him may seem proper ; and this Court will receive and consider such original papers in connection with the transcript of the proceedings.

RULE 15. No certiorari upon a suggestion of a diminution of the record, shall be ordered in any cause, unless a motion shall be made therefor in writing, setting forth the facts upon which the same is found, which, if not admitted by the other party, shall be verified by affidavit ; and all such motions shall be made at the terms at which the cause is sent up to this Court ; otherwise they shall not be granted, unless upon special cause shown to the Court accounting for the delay.

RULE 16. In all causes brought up to this Court, it shall be the duty of the plaintiff's Counsel to assign errors, or file exceptions, as the case may be, and he shall not be permitted in argument to discuss any other matters on the record, save those included in the bill of errors or exceptions filed.

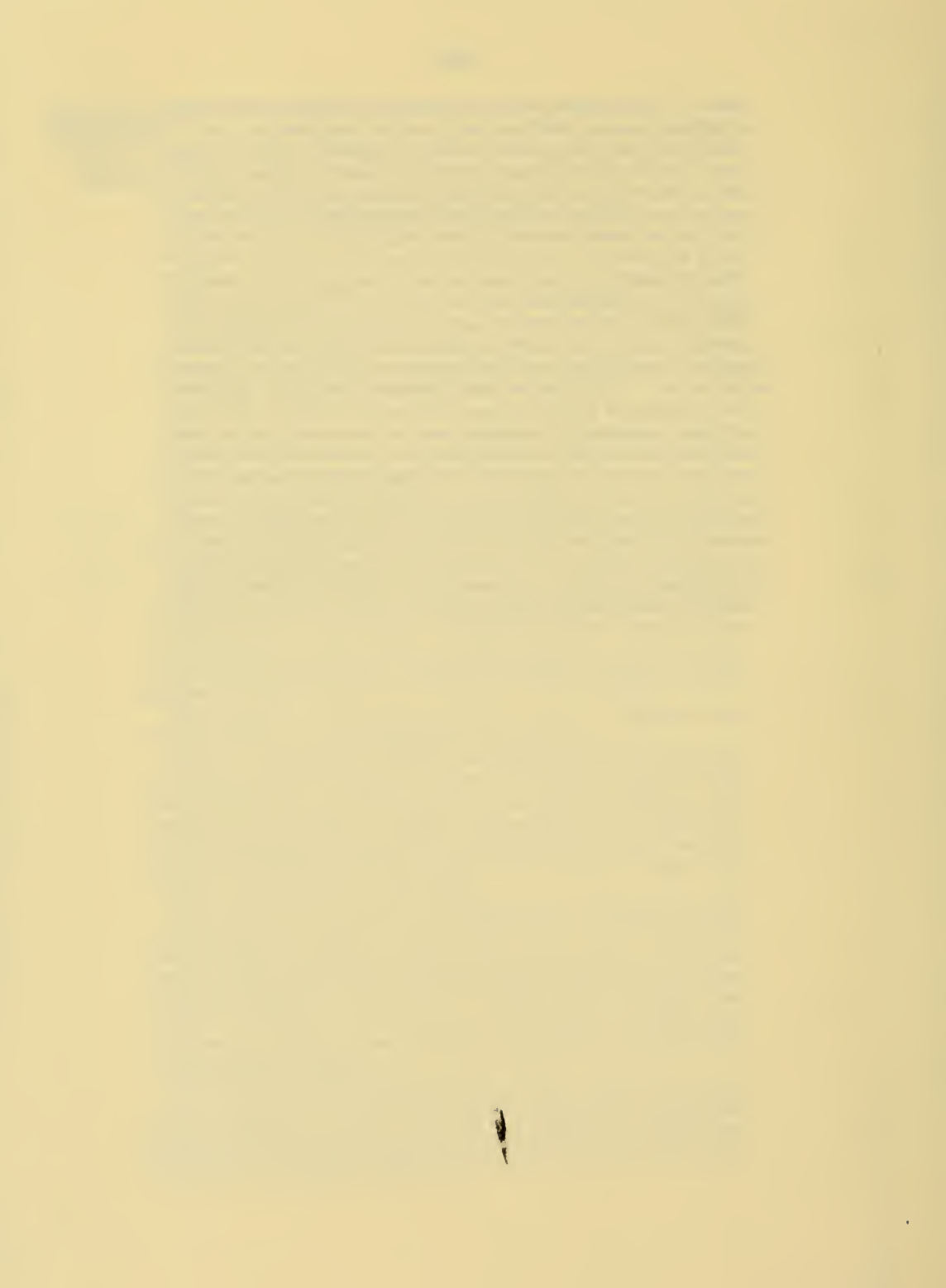
RULE 17. Immediately after the opening of Court on each day, and before argument, the Court will entertain motions.

RULE 18. [*Adopted by the Court of Appeals, January Term, 1837.*] That in all cases brought into this Court by appeal, writ of error, or otherwise, either party shall be admitted to apply for and receive from the Clerk of this Court, a copy of the record, the costs of which shall abide the event of the suit, and be taxed as other costs in the case.

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The following is added to the rules of practice in the Court of Appeals, to be denominated

RULE 19.—Testimony to be used in the Court of Appeals, in Admiralty cases, may be taken before any of the Clerks of the Superior Courts who may issue subpoenas to compel the attendance of witnesses. If the proctors reside in the same county, and notice of the examination has been given such length of time as the Clerk may deem reasonable, witnesses may be examined before such Clerk orally, and without interrogatories—in all cases the testimony may be taken on interrogatories. On filing interrogatories before the Clerk, he shall appoint a time in which cross interrogatories may be filed, and shall direct a copy of the interrogatories to be served on the opposite party. The Clerk shall reduce the testimony to writing, certify, envelope, and seal the same, and deliver it to the party entitled thereto; or transmit the same to the Clerk of this Court by private conveyance or mail.



RULES

ADOPTED BY THE COURT OF APPEALS FOR THE

GOVERNMENT OF THE PRACTICE

IN THE

SUPERIOR COURTS OF FLORIDA.

"SECTION 12. *Be it further enacted*, That the said Court of Appeals shall have power, and it shall be its duty, to make all necessary RULES for the regulation of the Superior Courts, as well as for the Court of Appeals."—Act of the Legislative Council. Approved, Feb. 10, 1832.

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JANUARY TERM, 1833.

TERRITORY OF FLORIDA :

City of Tallahassee :

}

COURT OF APPEALS :

January Term, 1833. }

Present :

The Hon. THOMAS RANDALL,
Judge of Middle Florida, and President of the Court.

The Hon. JOHN A. CAMERON,
Judge of West Florida.

The Hon. ROBERT RAYMOND REID,
Judge of East Florida.

THOMAS ESTON RANDOPH, Marshal.

JAMES S. LINN, Clerk.

Judge WEBB, of the Southern District, was prevented from attending the Court by unavoidable circumstances.

RULES

LAW DEPARTMENT.

I. ALL Inquisitions and Recognizances shall be returned as soon as practicable after they are taken, to the Clerk of the Superior Court, where they are properly returnable; and the Clerk of the Court shall transmit the same by the first safe conveyance (the mail excepted) to the District Attorney.

II. All Recognizances by order of the Court, shall be taken and entered of record by the Clerk, under the direction of the District Attorney.

III. The usual forms of receiving bills and arraigning prisoners, shall be observed in the Courts.

IV. The right of concluding a criminal case belongs to the District Attorney, but cannot be delegated by him to another person.

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V. If defendants under recognizance fail to appear when the Criminal Docket is under consideration and their cases called in in order, their recognizances shall be estreated and forfeited.

ATTORNEYS AT LAW.

VI. Persons making application for admission to the Bar, shall apply by petition to one of the Judges of the Superior Courts, presenting with the said petition, evidence of having attained the age of twenty-one, and of good moral character; if the application be made in vacation, the Judge shall, at a convenient season, thoroughly examine, at his chamber, the said applicant, and if found qualified, the Judge shall cause him to be duly *sworn in*, and shall issue to him a License, in the following form :

" At Chambers, day of 18

To A. B. Esquire.

THESE are to permit you to practice as an Attorney, Councillor and Solicitor, in the several Courts of the Territory of Florida. C. D.

Judge S. C. D. Florida."

Which said license shall be recorded by the Clerk upon the minutes of the Court, and then delivered to the Attorney; and the said Clerk may, if required, issue to said Attorney at Law, the following commission, for which he may charge and receive the sum of five dollars.

" TERRITORY OF FLORIDA.

KNOW ALL MEN by these presents, that A. B. Esquire, having made application to plead and practice in the several Courts of this Territory, and the said A. B. Esquire, having given satisfactory evidence of good moral character, as the law directs, and having been duly examined touching his knowledge of the Law, and found well qualified and skilled therein: He was admitted to all the privileges of an Attorney, Solicitor and Counselor at Law in the several Courts of this Territory.



IN WITNESS whereof, the presiding Judge hath hereunto set his hand, with the seal of the Court annexed, this day of in the year 18 C. D.

E. F. Clerk, Judge S. C. Dist. Florida."

If the application be in Term, the Court shall appoint two members of the Bar to examine the applicant, and shall administer to them the following oath: "*You and each of you, do solemnly swear that you will, well and truly, examine A. B. touching his qualifications as an Attorney and Counsellor at Law and Solicitor in Equity, and that you will faithfully report the result of such examination to the Court. So help you God!*" And the said examination may proceed in open Court, or be conducted in private, at the election of the examining Committee; if the report of the Committee be favorable to the applicant, the License and Commission shall issue, as aforesaid.—

Though the above shall be the usual course of proceeding, nothing herein contained, shall prevent the Judge from alone conducting the examination in open Court, or appointing a committee to examine in vacation, should the said Judge think proper to do so.

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VII. A license such as is described in the foregoing rule, or a certificate under the hand and seal of the clerk of one of the circuit courts of the United States of admission to practice in said circuit court, shall be sufficient to admit the party applying, to appear in any Superior Court of the Territory, as Attorney or Solicitor—but the license or certificate must be first recorded as the law directs.

VIII. The oath of the applicant for admission to the bar, shall be as follows: "*I, A. B. do solemnly swear, that I will support the Constitution of the United States. I do further swear, that I will honestly demean myself in my profession, and exercise the duties thereof to the best of my skill and abilities, so help me God !*"

IX. No Attorney or other officer of court shall be taken as bail in any criminal case, or as security in any appeal, writ of error, or other proceeding.

X. It shall be the duty of every Attorney to address the court from his place at the bar.

XI. No consent between counsel can be enforced by the court, unless reduced to writing and signed by the parties to the consent.

XII. There shall be but one Attorney on record for each party in a cause (except in the case of a law-partnership,) but there may be as many associate counsel as either party may see fit to employ; and the Attorney on record shall in all the pleadings and proceedings sign his name to the same, or authorize some person to sign for him.

CLERKS.

XIII. Every clerk shall keep a separate book, to be called "*The Memorandum Book*," in which he shall carefully transcribe every *precipe* or *memorandum*, or other direction to issue process, or writs of attachment.

XIV. The clerk shall keep the following dockets, full copies of which shall be furnished by him to the bar, which shall be called "*bar dockets*" in contradistinction to "*bench dockets*"—and the bench dockets shall not be subject to the inspection of the members of the bar, or other person, while the court is in session, viz:

1. THE COMMON LAW APPEARANCE DOCKET: containing the cases brought to each term.

2. THE COMMON LAW TRIAL DOCKET: containing all the cases standing for trial, and the entries made therein upon the appearance docket.

3. A MOTION DOCKET: upon which shall be placed all motions which are not of course and which are *litigated*—and no such motion shall be heard, unless in its order upon said docket.

4. SHERIFF'S REPORT DOCKET: containing all *illegalities* and claims.

N. B. The rules for the admission of attorneys, have no relation to applications of attorneys from Alabama and Georgia, under the act of the twentieth of November, 1829.

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5. A CRIMINAL DOCKET.
6. A DOCKET OF APPEALS AND WRITS OF CERTIORARI.
7. AN EQUITY DOCKET.
8. A DOCKET OF LAND-CLAIMS.
9. A SUBPENA DOCKET.
10. A JUDGMENT AND EXECUTION DOCKET.

11. A DEAD DOCKET : on which shall be placed all cases where-
in the plaintiff or defendant or both are dead.

XV. The clerk shall also keep a *book of fines*, in which he shall enter the amount of fines—the time at which it was imposed—the amount paid and *when*, and the disbursement of the same.

XVI. The clerk will strictly observe the regulations contained in the 59th section of the act regulating judicial proceedings, approved 23d November, 1828 ; and in addition to the provisions of the said 59th section, it shall be the duty of the clerk, on receipt of any deposition to be read in evidence on the trial of any cause, whether said deposition have been taken under a commission or otherwise, immediately, if deposited in due form, to break the seal of the *envelope* and endorse on the said *envelope*, the title of the cause, and the names of the witnesses whose depositions have been taken, together with the date of the time when the commission issued, and when it was returned to the clerk's office—which packet so endorsed, it shall then be the duty of the clerk to place on file, among the pleadings of the cause.

XVII. The clerk shall make upon his minutes, a note or statement of all documentary evidence read on any trial ; if deeds or other instruments of writing—the names of the parties and date ; if depositions—the names of deponents and date of their depositions ; —and shall endorse upon every plea, or exhibit in a cause, the time of filing the same.

INTERROGATORIES.

XVIII. All objections to the execution of the commission for taking interrogatories, or to the manner in which depositions are taken, shall be made and disposed of, before the parties go into the trial of the cause.

XIX. All objections to interrogatories or the form in which they are conceived, must be assigned in writing by the *cross examinant* before the depositions are taken.

MOTIONS AND NOTICES.

XX. All notices required by the law or by these rules, shall be in writing [unless when otherwise directed] and affidavits of the service thereof, will be required by the court, if said service be denied by the opposite party—and not otherwise.

XXI. All motions arising in cases upon the appearance docket, and all demurrers shall be argued when the cases are called on the said docket, but the court may in its discretion, continue said mo-

tions and demurrer for advisement, and order them to be placed on the *motion docket*. Sup'r Courts
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XXII. The first hour of the session of the court on each day, after the first day of the term, shall be occupied in the consideration of the motion docket; unless the court shall think fit to direct otherwise.

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XXIII. Notices to produce books and papers must be given ten days at least, before the case is called for trial; but the court must be satisfied that such books and papers are material in the cause; and that the notice was not given for delay. If a nonsuit be ordered because the plaintiff does not comply with the notice, or a judgment by default be entered in case of non-compliance by defendant—the said nonsuit may be set aside, and the case reinstated, in the event of the production of said books or papers during the term; and the said judgment by default may be set aside at any time during the trial; provided, the defendant has complied with the notice. All such notices shall be made known to the court and insisted upon, before the parties go into the trial of the cause; otherwise, they shall be considered as waived and dispensed with.

XXIV. Upon all motions and rules to show cause, the party showing cause or objecting to the motion, shall *commence and conclude*. And no motion, not in its nature *ex parte*, except those made for the continuance of causes when called for trial, shall be made in any cause, without reasonable notice served on the Attorney for the opposite party.

NEW TRIALS.

XXV. If no motion be made for a new trial, or in arrest of judgment, within four days after a verdict rendered, final judgment thereon shall be entered; but if the court should be about to adjourn, before the expiration of the said four days, such motion must be made and submitted for argument, before the adjournment of the court.—And when the court shall adjourn after any jury trial, before the lapse of the said four days, the judgment shall be entered as of the same term, at which the cause was tried, and in no case, unless for special reason, delayed until the next term.

XXVI. No motion for a new trial shall be made, unless due notice thereof shall be served on the opposite party, with a statement of the grounds on which it is intended to make the motion.

XXVII. The court will grant new trials in all cases tried by a jury, wherein the verdict is against law or evidence, or against the manifest weight of the evidence, or where there has been any material mistake, or misconduct of the jury; or where the damages awarded by the Jury, are grossly excessive, and in the opinion of the court are unreasonable; or where the party applying for a new trial, alleges and shows by affidavits the discovery of new and material evidence, which he was not aware of, and could not produce at the trial.

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XXVIII. In all cases of new trials granted, except where the verdict is against law or evidence, the costs of the former trial shall be paid *instantly* by the party obtaining the new trial.

ORDER OF BUSINESS—PLEADING—PRACTICE.

XXIX. The court shall call its dockets of cases for trials *twice* at each term, if time allow thereof.

XXX. When a case is called in its order, the same must be tried, continued or dismissed; but, by consent, the cause may be placed at the foot of the docket to be again called, if there be time for the second calling of the docket, and if there be not, to be continued.

The second calling must be peremptory.

XXXI. Parties must be prepared to proceed within five minutes after the case is called in its order; otherwise, the court may dismiss the case, or rule the defendant to a trial, as sound discretion may direct.

XXXII. In all cases where application is made for continuance, [unless on the ground of a sudden and unexpected emergency] the party making the application must have his affidavit prepared and ready to be read, on the calling of the cause.

XXXIII. The plaintiff shall, in no case, be *compelled* to submit to a non suit, if he be in a condition to demand and proceed to trial; but if he desire to submit to a non suit, he must do so before the jury retire, or commence their deliberations on their verdict.

XXXIV. The plaintiff may, at any time, discontinue his cause, on entering such discontinuance in the clerk's office, and paying all costs.

XXXV. The time for calling the criminal docket shall be announced at the opening of the court, on the second day of the term, and the said docket shall be called at the time appointed, in the same manner and order as the civil trial docket is called.

XXXVI. All declarations must be filed on or before the first day of the term; and all pleas, answers or demurrers on or before the calling of the appearance docket, on the last day of the term.

XXXVII. All issues may be made up when the cases are called for trial; but when a demurrer is filed, notice thereof must be given in time for joinder therein, before the appearance docket shall be called.

XXXVIII. The mere entry of the name of the attorney for the defendant shall be equivalent to the filing of the general issue, at the first term; but if no plea be filed on or before the first day of the second term, with notice thereof to the plaintiff's attorney, the plaintiff may enter his judgment by default, for want of a plea.

XXXIX. If the plaintiff fail to file his declaration on or before the first day of the term, the next shall be considered the appearance term; and if the declaration be not filed on or before the first day of the next or second term, the case shall, on the calling of the appearance docket, be dismissed.

XL. No default shall be opened without the payment of all costs that have accrued, and pleading *instante* to the merits of the action.

XLI. No amendment of the pleadings shall be allowed after the case has been submitted to the jury. The case shall be considered as *submitted*, after the plaintiff shall have read the declaration in the cause.

XLII. All amendments of mere *form* shall be ordered *instante* and without prejudice to either party. Amendments affecting the merits of a cause, may be ordered at the discretion of the court, upon payment of costs, and on such terms as the court may think proper to impose ; but where a substantial amendment is made, the opposite party may continue on motion.

XLIII. In all actions where the general issue may be pleaded, and the defendant thinks proper to plead the same, he may, instead of additional special pleas, give notice in writing of any special matter which he intends to give in evidence on the trial, subjoining such notice to the plea of the general issue, and to which notice no replication shall be necessary ; and the said notice shall form a part of the record in the cause, but the defendant in all cases may plead as many special pleas, though inconsistent with each other, as he may deem fit.

XLIV. If a demurrer to any declaration, or any count in a declaration be over-ruled, or the prayer for leave to plead further by the defendant, such leave will be granted only on payment of costs, and on terms of pleading issuably *instante*, and going to trial at the same term of the court, if the cause by due course of law be triable at that term, if not, at the ensuing term. If the demurrer be sustained, the plaintiff shall have leave to amend, on payment of all costs, but in that case the defendant shall not be compelled to go to trial until the next term of the court. In the case of a demurrer to any other pleading in a cause, on the decision thereof, the court will make such order, or give such judgment, as law and justice shall require.

XLV. Suits may be brought by a plaintiff for the use of another person named in the process or the pleadings.

XLVI. Where documentary evidence is introduced in a cause it shall be forthwith filed with the clerk, and considered in the custody of the court. Such papers as belong of right to the party may be withdrawn upon cause shown in the progress of the suit, or after the case is at an end, on motion and by order of court, upon such terms as the court may prescribe.

XLVII. In all examinations of witnesses, the party introducing the witness shall first examine him, and after the cross-examination by the opposite party and a re-examination by him taking the witness, the examination shall cease, unless by special permission of the court. Only one counsel on each side, shall conduct the examination of witnesses, but the court, on application, may allow counsel to relieve each other in the course of a protracted examination.

XLVIII. Only one counsel shall be heard in conclusion. When

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the defendant introduces no evidence he is entitled to the conclusion. In cases of claim, the plaintiff in execution is entitled to the commencement and conclusion, except where the claimant introduces no evidence.

XLIX. Where a party applies for a continuance on the ground of the absence of a witness, it must be shown by affidavit, that the witness has been duly served with a subpoena, or a satisfactory reason assigned for the omission; that he is absent without the consent of the party directly or indirectly given; that he resides in the county where the suit is pending, or if out of the county, good cause must be shown for not taking his deposition; that the testimony is material; that the applicant expects to procure said testimony at the next term; that the application is not made for delay only; and the party must further state the facts expected to be proved by said witness.

L. The court will in all cases, in its discretion, for good cause shown on a trial, order a juror to be withdrawn—and in such a case the cause shall be continued until the next term, unless the parties agree, with consent of the court, to a trial at the same term.

LI. The counsel on either side may *except* to any decision made by the court during the trial, on the admission or rejection of evidence, or on any point of law, and may also except to any opinion given in the Judge's charge to the jury, and may request the Judge to charge the jury in any particular manner on a point of law; and if the request be refused or neglected, an exception may also be taken to such refusal or neglect.

LII. Whenever any *exception* is taken to any decision made, or opinion given by the Judge, or to his refusal or neglect to charge the jury as requested, the counsel taking the exception, shall hand to the Judge a note thereof, and pray the same to be entered on the minutes; after which, before the adjournment of the court if there be time, the bill of exceptions shall be drawn up in form, and the original, or a copy thereof, delivered to the counsel of the opposite party, who shall have reasonable time to suggest amendments to the same, and if the counsel on both sides cannot agree on the amendments suggested, both the bill and the amendments shall be submitted to the Judge for his correction; and when completed, it will be signed and sealed by the Judge and delivered to the party obtaining it, and by him filed in the Clerk's office, where it shall form a part of the record in the case, in the event of writ of error or appeal; but no bill of exceptions shall be filed if not drawn up, completed and signed within thirty days after the adjournment of the court.

LIII. Previous to the entry of final judgment in any cause, the clerk shall make out a bill of the costs, or the attorney for the party entitled to the judgment, may make out the bill, with the aid of the clerk; and the bill or a copy thereof, before taxation, shall be shown to the attorney for the opposite party, and if any objection to it be made, it shall be submitted to the court for correction, and be finally taxed, when the amount of it shall be entered of judgment, either as forming a part of the judgment in the cause, or for the costs alone as the case may require.

LIV. Whenever costs are awarded on any proceeding in a case, whether setting-aside defaults, over-ruling demurrers, or motions, or granting continuances, they shall be paid *instantly*, or if not paid, judgment shall be entered for them, on motion, and execution may issue on such judgments, as in other cases. Sup'r Courts
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LV. Whenever any cause is discontinued by order of the court, for want of due prosecution, judgment thereon as in case of *non-suit* or *non-pros*, as the case may require, shall be immediately entered by the clerk for the costs after being taxed.

The Judges of the Court of Appeals have adopted the foregoing rules for the government of the practice in the several Districts of Florida. They do not believe the *system* presented to their brethren of the bar is a perfect one, but they entertain the opinion, notwithstanding, that it is better than *no system at all*. It will be their duty hereafter to revise these rules, to expunge such as may prove inconvenient in practice, and to add others which *their own experience*, and *the learning and intelligence of the bar*, may from time to time suggest.

The following are the additions to, and amendments of, the rules of practice, in the Superior Courts of this Territory, to wit :

First : The fourth rule is hereby rescinded, and in lieu thereof, the following is adopted, viz :

RULE 4—The right of concluding a criminal case belongs to the District Attorney, but may be delegated by him to other counsel.

Second : The thirteenth rule is rescinded, and in lieu thereof the following rule is adopted, viz :

RULE 13—Each Clerk of the Superior Court shall keep a separate book, to be called the "*memorandum book*," in which he shall carefully note or transcribe every precept, memorandum, or other direction to issue summons, attachment, or any other process by which a suit is commenced.

Third : The thirtieth rule is hereby rescinded, and in lieu thereof the following is adopted, viz :

RULE 30—When a cause is called in its order on the trial docket, it must be tried, continued or dismissed : but by consent of parties it may be placed on the foot of the docket, or passed until a second or subsequent calling of the docket, if there be time for another, calling of the docket, if not, then to be continued. The continuance of a cause when called for trial (if either party is entitled to a continuance) may be to the next term, or in the discretion of the Court, and for good cause shown, it may be to a subsequent day in the same term, upon such condition or terms as the Court may see fit to impose upon the party desiring a continuance.

Fifth : The 36th, 37th, 38th and 39th rules are hereby rescinded, and the following rules adopted in lieu thereof, viz :

RULE 36—The mere entry of the name of an Attorney for the defendant, on the appearance docket, shall, as heretofore, be sufficient to prevent a judgment by default, at the first or appearance

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term : but after such entry, the defendant shall cause his plea or pleas to be filed within seventy days after the last day of the appearance term, and shall serve notice of the filing thereof on the plaintiff's Attorney ; and in case such plea, or any subsequent pleading in the cause, shall conclude with a verification, or require any replication, or answer thereto, then the party filing the same shall serve a copy of such pleading and notice of the filing thereof, on the Attorney of the opposite party ; and the parties respectively shall be allowed *twenty days* notice after the service of a copy of any such pleading, and notice of the filing of the same, to reply, rejoin, or otherwise answer the same.

RULE 37—In case the defendant shall neglect to plead within seventy days after the appearance term, and serve a copy thereof, with notice of the filing on the plaintiff's Attorney ; or in case either party shall thereafter neglect to reply, rejoin or otherwise answer, in manner aforesaid, any pleading requiring an answer, within twenty days after the service of a copy thereof, and notice of filing, then the opposite party may file an affidavit of such default, which shall be held equivalent to the entry of a default in the cause ; and at the next term of the Court the party entering such default, may move for and obtain such judgment as shall be appropriate in the cause upon such default : *Provided, however,* That it shall not, in any case, be necessary to serve a copy of any pleading which is filed in the term time ; but notice of the filing shall, in all cases, be given.

RULE 38—In all cases the pleadings shall be completed, and the issues made up, on or before the first day of the trial term, unless further time is allowed by special order of the Court. The trial term, as provided by statute, shall be deemed to be the next after the appearance term ; and all causes shall stand for trial, and be placed upon the trial docket, at the term next after the appearance term. And when a cause is called upon the trial docket, if it shall appear that either party is in default, by reason of not having pleaded or answered any pleading which he was bound to answer, then the opposite party may move for and obtain such judgment as may be appropriate in such default ; unless the Court, for cause to be shown, shall, by special order, allow further time to the party in default.

RULE 39—On the calling of the appearance docket at each term, if no declaration has been filed in a cause, the defendant may move to dismiss the cause on that ground, and shall be entitled to take a rule dismissing the cause, unless the plaintiff shall show good cause for not having filed the declaration ; in which case he shall be allowed ten days further time, or such other time as the Court may see fit to grant, to file the declaration, and in that case the defendant shall be allowed seventy days to plead after the filing of the declaration, and after a service of a copy thereof, and notice of the filing.

Sixth : The 41st and 42d rules are hereby rescinded, and in lieu thereof the following rules are adopted, viz :

RULE 41—All demurrers to declarations must be filed at or during the same term at which the declaration is filed, and notice thereof immediately given to the plaintiff's Attorney. And the plaintiff shall not be held to join in demurrer if the same is not filed at the same term of the declaration, but may treat the same as a nullity : *Provided, however,* That when the plaintiff shall delay filing his declaration, so that there shall not be two full days in the same term after filing the same, then the defendant may be allowed sixty days thereafter to demur to such declaration, and he may file and serve his demurrer with any pleas in bar which he may put in.

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RULE 42—All amendments in matters of form merely, may be ordered instanter and without prejudice to either party. Amendments in substance, or amendments affecting the merits of a cause, may be ordered at the discretion of the Court, upon payment of costs, or on such terms as the Court may think proper to impose.

A copy.

(Test)

RICHARD T. BIRCHETT, Clerk.

March 1st, 1842.

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